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सं. 22। नई दिल्ली, मई 23—मई 29, 2010, शनिवार/ज्येष्ठ 2—ज्येष्ठ 8, 1932
No. 22। NEW DELHI, MAY 23—MAY 29, 2010, SATURDAY/JYAISTHA 2—JYAISTHA 8, 1932

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 25 मई, 2010

का. आ. 1368.—सर्वसाधारण कि जनकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम, 5ग और 5ड़ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोनार्थ कर निर्धारण वर्ष 2009-2010 से आगे बोस इन्स्टीट्यूट, कोलकाता को निम्नलिखित शर्तों के अधीन अनुसंधान कार्यकलापों में लगी 'संघ' की श्रेणी में अनुमोदित किया गया है, अर्थात्—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा।
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा।

(iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप धारा (2) के स्पष्टीकरण में यथा परिचालित किसी लेखाकार से ऐसी खाता-बही की लेखा-परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप धारा (1) की अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं दस्तावेजित लेखा-परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयकृत अथवा आयकर निदेशक को प्रस्तुत करेगा;

(iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा-परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापस ले लेगी यदि अनुमोदित संगठन—

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम, 5G और 5D के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 39/2010/फा. सं. 203/154/2009-आ.का.नि.-II]
अजय गोयल, निदेशक

**MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)**

New Delhi, the 25th May, 2010

S.O. 1368.—It is hereby notified for general information that the organization **Bose Institute, Kolkata** has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), **from Assessment year 2009-2010 onwards** in the category of 'Association', partly engaged in research activities subject to the following conditions, namely:—

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain **separate books of accounts** in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and

verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;

(iv) The approved organization shall maintain a **separate statement of donations** received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

(2) The Central Government shall withdraw the approval if the approved organization:—

- (a) fails to maintain **separate books of accounts** referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules, 5C and 5E of the said Rules.

[Notification No. 39/2010/F. No. 203/154/2009-ITA-II]

AJAY GOYAL, Director

CORRIGENDUM

New Delhi, the 19th May, 2010

S.O. 1369.—In the Notification Number 57/2008 and 58/2008 dated 30-4-2008 in the case of **Rajiv Gandhi Foundation, New Delhi** the words and figure "with effect from 1-4-2006" of the first para of the said Notifications, may be read as "from Assessment year 2007-08 onwards".

Other terms and condition of the said notification remain unchanged.

[F. No. 203/50/2008-ITA-II]

AJAY GOYAL, Director (ITA-II)

(स्वयं विभाग)

नई दिल्ली, 26 मई, 2010

का.आ. 1370.—भारत के संविधान के अनुच्छेद 77 के खंड (3) के अनुसरण में, राष्ट्रपति वित्तीय शक्तियों का प्रत्यायोजन नियमावली, 1978 में और संशोधन करने के लिए एतदद्वारा निम्नलिखित नियम बनाते हैं, नामतः

1. (1) ये नियम वित्तीय शक्तियों का प्रत्यायोजन (संशोधन) नियमावली, 2010 कहे जाएंगे।
- (2) ये नियम सरकारी राजपत्र में अपने प्रकाशन की तारीख से प्रभावी होंगे।
2. वित्तीय शक्तियों का प्रत्यायोजन नियमावली, 1978 की अनुसूची V की तालिका में “वाहन भाड़े पर लेना” से संबंधित मद की कम सं. 3 के कॉलम 3 में “सामान्य टिप्पणियाँ” शीर्षक 6 के तहत, पैराग्राफ (i) में संख्या “150” के स्थान पर संख्या “300” प्रतिस्थापित करें।

[फा. सं. I(18)/स्था.-II(क)/2010]

एस.कृष्णमूर्ति, अवर सचिव

टिप्पणी:—मूल नियम सा.आ.सं. 2131, दिनांक 22 जुलाई, 1978 के तहत भारत के राजपत्र में प्रकाशित हुए थे और तब से इनमें निम्नलिखित के द्वारा संशोधन किया गया है:-

- (i) अधिसूचना स.का.आ.1187, दिनांक 9-6-1979
- (ii) " सं. का. आ. 2942, दिनांक 1-9-1979
- (iii) " सं. का. आ. 2611, दिनांक 4-10-1980
- (iv) " सं. का. आ. 2164, दिनांक 15-8-1981
- (v) " सं. का. आ. 2304, दिनांक 5-9-1981
- (vi) " सं. का. आ. 3073, दिनांक 4-9-1982
- (vii) " सं. का. आ. 4171, दिनांक 11-12-1982
- (viii) " सं. का. आ. 1314, दिनांक 26-2-1983
- (ix) " सं. का. आ. 2502, दिनांक 4-8-1984
- (x) " सं. का. आ. 22, दिनांक 5-1-1985
- (xi) " सं. का. आ. 1958, दिनांक 11-5-1985
- (xii) " सं. का. आ. 3082, दिनांक 6-7-1985
- (xiii) " सं. का. आ. 3974 दिनांक 24-8-1985
- (xiv) " सं. का. आ. 5641, दिनांक 21-12-1985
- (xv) " सं. का. आ. 1548; दिनांक 19-4-1986
- (xvi) " सं. का. आ. 3183, दिनांक 20-9-1986
- (xvii) " सं. का. आ. 3787, दिनांक 8-11-1986
- (xviii) " सं. का. आ. 2508, दिनांक 19-9-1987
- (xix) " सं. का. आ. 3092, दिनांक 7-11-1987
- (xx) " सं. का. आ. 3581, दिनांक 10-12-1988
- (xxi) " सं. का. आ. 641, दिनांक 17-3-1990

- (xxii) अधिसूचना सं. का. आ. 1469, दिनांक 26-5-1990
- (xxiii) " सं. का. आ. 2173, दिनांक 18-8-1990
- (xxiv) " सं. का. आ. 3033, दिनांक 17-11-1990
- (xxv) " सं. का. आ. 3414, दिनांक 22-12-1990
- (xxvi) " सं. का. आ. 534, दिनांक 28-2-1991
- (xxvii) " सं. का. आ. 2235, दिनांक 24-8-1991
- (xxviii) " सं. का. आ. 547(ई), दिनांक 24-7-1992
- (xxix) " सं. का. आ. 466, दिनांक 13-3-1993
- (xxx) " सं. का. आ. 1292, दिनांक 12-6-1993
- (xxxi) " सं. का. आ. 685, दिनांक 12-3-1994
- (xxxii) " सं. का. आ. 1232, दिनांक 28-5-1994
- (xxxiii) " सं. का. आ. 1945, दिनांक 13-8-1994
- (xxxiv) " सं. का. आ. 2451, दिनांक 24-9-1994
- (xxxv) " सं. का. आ. 174, दिनांक 28-1-1995
- (xxxvi) " सं. का. आ. 670 (ई), दिनांक 30-9-1996
- (xxxvii) " सं. का. आ. 665(ई), दिनांक 5-8-1998
- (xxxviii) " सं. का. आ. 1835, दिनांक 19-9-1998
- (xxxix) " सं. का. आ. 2274, दिनांक 14-8-1999
- (xxxx) " सं. का. आ. 3054, दिनांक 23-10-1999
- (xxxxi) " सं. का. आ. 2946, दिनांक 3-11-2001
- (xxxxii) " सं. का. आ. 3661, दिनांक 23-11-2002
- (xxxxiii) " सं. का. आ. 1970, दिनांक 14-7-2007

(Department of Expenditure)

New Delhi, the 26th May, 2010

S.O. 1370.—In pursuance of clause (3) of Article 77 of the Constitution of India, the President hereby makes the following rules further to amend the Delegation of Financial Powers Rules, 1978, namely :—

1. (1) These rules may be called the Delegation of Financial Powers (Amendment) Rules, 2010.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Table to the Schedule V of the Delegation of Financial Powers Rules, 1978, for the item No. 3 relating to “Conveyance hire”, in column 3, under the heading 6 “General Notes”, in paragraph (i), for the figures “150”, the figures “300”, shall be substituted.

[F. No. I(18)/E.-II (A)/2010]

S. KRISHNAMOORTHI, Under Secy.

Note:—The principal rules were published in the Gazette of India vide S.O. No. 2131, dated the 22nd July, 1978 and

have subsequently been amended vide :—

- (i) Notification No. S.O. 1187, dated 9-6-1979
- (ii) " No. S.O. 2942, dated 1-9-1979
- (iii) " No. S.O. 2611, dated 4-10-1980
- (iv) " No. S.O. 2164, dated 15-8-1981
- (v) " No. S.O. 2304, dated 5-9-1981
- (vi) " No. S.O. 3073, dated 4-9-1982
- (vii) " No. S.O. 4171, dated 11-12-1982
- (viii) " No. S.O. 1314, dated 26-2-1983
- (ix) " No. S.O. 2502, dated 4-8-1984
- (x) " No. S.O. 22, dated 5-1-1985
- (xi) " No. S.O. 1958, dated 11-5-1985
- (xii) " No. S.O. 3082, dated 6-7-1985
- (xiii) " No. S.O. 3974, dated 24-8-1985
- (xiv) " No. S.O. 5641, dated 21-12-1985
- (xv) " No. S.O. 1548, dated 19-4-1986
- (xvi) " No. S.O. 3183, dated 20-9-1986
- (xvii) " No. S.O. 3787, dated 8-11-1986
- (xviii) " No. S.O. 2508, dated 19-9-1987
- (xix) " No. S.O. 3092, dated 7-11-1987
- (xx) " No. S.O. 3581, dated 10-12-1988
- (xxi) " No. S.O. 641, dated 17-3-1990
- (xxii) " No. S.O. 1469, dated 26-5-1990
- (xxiii) " No. S.O. 2173, dated 18-8-1990
- (xxiv) " No. S.O. 3033, dated 17-11-1990
- (xxv) " No. S.O. 3414, dated 22-12-1990
- (xxvi) " No. S.O. 534, dated 28-2-1991
- (xxvii) " No. S.O. 2235, dated 24-8-1991
- (xxviii) " No. S.O. 547(E), dated 24-7-1992
- (xxix) " No. S.O. 466, dated 13-3-1993
- (xxx) " No. S.O. 1292, dated 12-6-1993
- (xxxi) " No. S.O. 685, dated 12-3-1994
- (xxxii) " No. S.O. 1232, dated 28-5-1994
- (xxxiii) " No. S.O. 1945, dated 13-8-1994
- (xxxiv) " No. S.O. 2451, dated 24-9-1994
- (xxxv) " No. S.O. 174, dated 28-1-1995
- (xxxvi) " No. S.O. 670 (E), dated 30-9-1996
- (xxxvii) " No. S.O. 665(E), dated 5-8-1998
- (xxxviii) " No. S.O. 1835, dated 19-9-1998

- (xxxix) Notification No. S.O. 2274, dated 14-8-1999
- (xxxx) " No. S.O. 3054, dated 23-10-1999
- (xxxxi) " No. S.O. 2946, dated 3-11-2001
- (xxxxii) " No. S.O. 3661, dated 23-11-2002
- (xxxxiii) " No. S.O. 1970, dated 14-7-2007

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 14 मई, 2010

का. आ. 1371.—इस मंत्रालय की दिनांक 10-11-2009 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार श्री अमन अग्रवाल, हिस्परिंग पाम्स, सिनक्यूरिम बीच, कंडोलिम, बार्डेज, गोवा- 403515 को तत्काल प्रभाव से 2 वर्षों की अवधि के लिए अथवा आगले आदेश होने तक, इनमें से जो भी पहले घटित हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के मुख्य सलाहकार पैनल का सदस्य नियुक्त करती है।

[फा.सं.-809/7/2009-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 14th May, 2010

S.O. 1371.—In continuation of this Ministry's Notification of even number, dated 10-11-2009 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Aman Agarwal, Whispering Palms, Sinquerim Beach, Candolim, Bardez, Goa-403515 as a member of the Mumbai Advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F.No.-809/7/2009-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 14 मई, 2010

का. आ. 1372.—इस मंत्रालय की दिनांक 10-11-2009 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार श्री ए. जयप्रकाश, गुरु कृष्ण, पोस्ट ऑफिस-शांतिगिरि, तिरुवनंतपुरम्-695589 को तत्काल प्रभाव से 2

वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, इनमें से जो भी पहले घटित हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के मुम्बई सलाहकार पैनल का सदस्य नियुक्त करती है।

[फा.सं.-809/6/2009-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 14th May, 2010

S.O. 1372.—In continuation of this Ministry's Notifiactaion of even number, dated 10-11-2009 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematography Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certificacate) Rules, 1983, the Central Government is pleased to appoint Shri A. Jayaprakash, Guru Kripam, Santhigiri P.O., Thirvananthapuram- 695589 as a member of the Thirvananthapuram Advisory panel of the Central Board of Film Certificate with immediate effect for a period of two years or until furthre orders, whivhever is earlier.

[F. No. 809/6/2009-F(C)]

AMITABH KUMAR, Director (Films)

नई दिल्ली, 18 मई, 2010

का. आ. 1373.—इस मंत्रालय की दिनांक 11-11-2009 की समसंख्यक अधिसूचना के क्रम में तथा चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 एवं 8 के साथ पठित चलचित्र अधिनियम 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार श्री किरिप चालिहा, जू. नारेंगी टीन-अली, जू. रोड़ गुवाहटी-3 को तत्काल प्रभाव से 2 वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, इनमें से जो भी पहले घटित हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के मुम्बई सलाहकार पैनल का सदस्य नियुक्त करती है।

[फा.सं. 809/5/2008-एफ (सी)]

अमिताभ कुमार, निदेशक (फिल्म)

New Delhi, the 18th May, 2010

S.O. 1373.—In continuation of this Ministry's Notifiactaion of even number, dated 1-11-2009 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematography Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certificacation) Rules, 1983, the Central Government is pleased to appoint Shri Kirip Chaliha, Zoo Narengi Tin-Ali, Zoo Road, Guwahati-3 as a member of the Mumbai Advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whivhever is earlier.

[F.No. 809/5/2008-F(C)]

AMITABH KUMAR, Directors (Films)

नई दिल्ली, 20 मई, 2010

का. आ. 1374.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, सूचना और प्रसारण मंत्रालय के निम्नलिखित अधीनस्थ कार्यालयों, जिनके 80% से अधिक कर्मचारीवृद्धि ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:-

1. ब्रॉडकास्ट इंजीनियरिंग कन्सल्टेंट्स इंडिया लि. (बेसिल), नई दिल्ली-110002

2. गवेषणा, संदर्भ और प्रशिक्षण प्रभाग (आरआरएण्डटीडी), नई दिल्ली-110003

[फा.सं. ई-11017/6/2010-हिंदी]

प्रियम्बद्धा, निदेशक (रा.भा.)

New Delhi, the 20th May, 2010

S.O. 1374.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under Ministry of Information and Broadcasting, more than 80% of the staff whereof have acquired the working knowledge of Hindi:-

1. Broadcast Engineering Consultants India Ltd., (BECIL), New Delhi-110002

2. Research , Reference and Training Division (RR&TD), New Delhi-110003

[F.No. E-11017/6/2010-Hindi]

PRIYAMVADA, Director (O.L.)

* स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 18 फरवरी, 2010

का. आ. 1375.—केंद्रीय सरकार, भारतीय दंत चिकित्सा परिषद् से परामर्श करने के बाद दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम की अनुसूची के भाग-I में एतद्वारा निम्नलिखित संशोधन करती है, अर्थात्:-

2. डा. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा प्रदत्त दंत चिकित्सा डिग्रियों को मान्यता देने के संबंध में, दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम सं. 50 के सामने स्तम्भ 2 और 3 की मौजूदा प्रविष्टियों में निम्नलिखित प्रविष्टियाँ उसके अंतर्गत अन्तःस्थापित की जाएंगी, अर्थात्:-

उपभोक्ता पापले, खाद्य और सार्वजनिक वितरण मंत्रालय

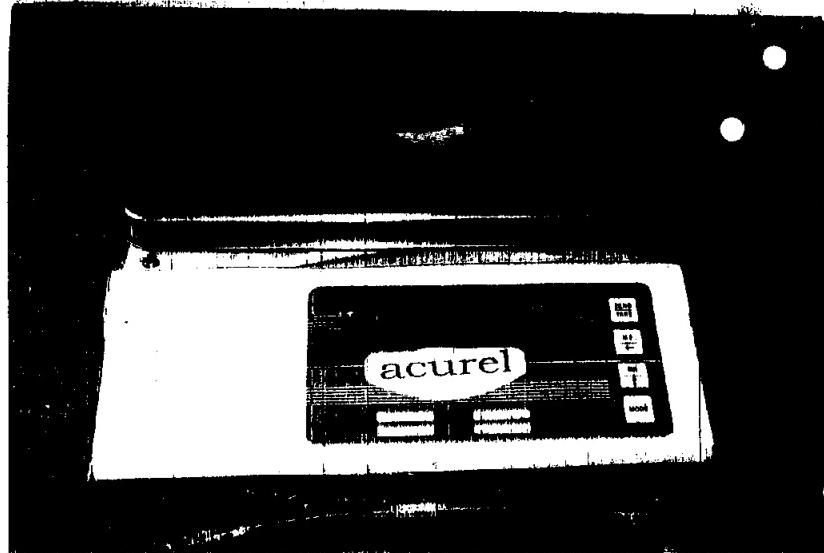
(उपभोक्ता पापले विभाग)

नई दिल्ली, 17 मई, 2010

का.आ. 1378.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एक्यूरल वेइंग सिस्टम प्रा. लि., नं. 9/1, फोर्थ क्रॉस स्ट्रीट, अशोका एकेन्यू, पेरियार नगर, चेन्नई-600 082 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले “एटीपी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ब्रांड का नाम “एक्यूरल” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/08/389 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धर्ति आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्टाम्प और सीलिंग के सत्यापन के लिए प्लेटफार्म इंडिकेटर के बायों तरफ अपर कवर और तल प्लेट में काट कर दो छेद किए गए हैं और इन छेदों को लीड वायर से कसा गया है। उपकरण को सील से छेड़छाड़ किए बिना नहीं खोला जा सकता। उपकरण में बाहरी केलिब्रेशन सुविधा है और किसी भी प्रकार के कपटपूर्ण व्यवहार को रोकने लिए मैन पीसीबी पर ढीप स्विच लगाया गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो । मि. ग्रा. से 50 मि.ग्रा. तक के “ई” मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. से या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (283)/2008]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 17th May, 2010

S.O. 1378.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy class-II) of series "ATP" and with brand name "Acurel" (hereinafter referred to as the said model), manufactured by M/s. Acurel Weighing Systems Pvt. Ltd., No. 9/1, 4th Cross Street, Ashoka Avenue, periyar Nagar, Chennai-600 082 which is assigned the the approval mark IND/09/08/389.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (*e*) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

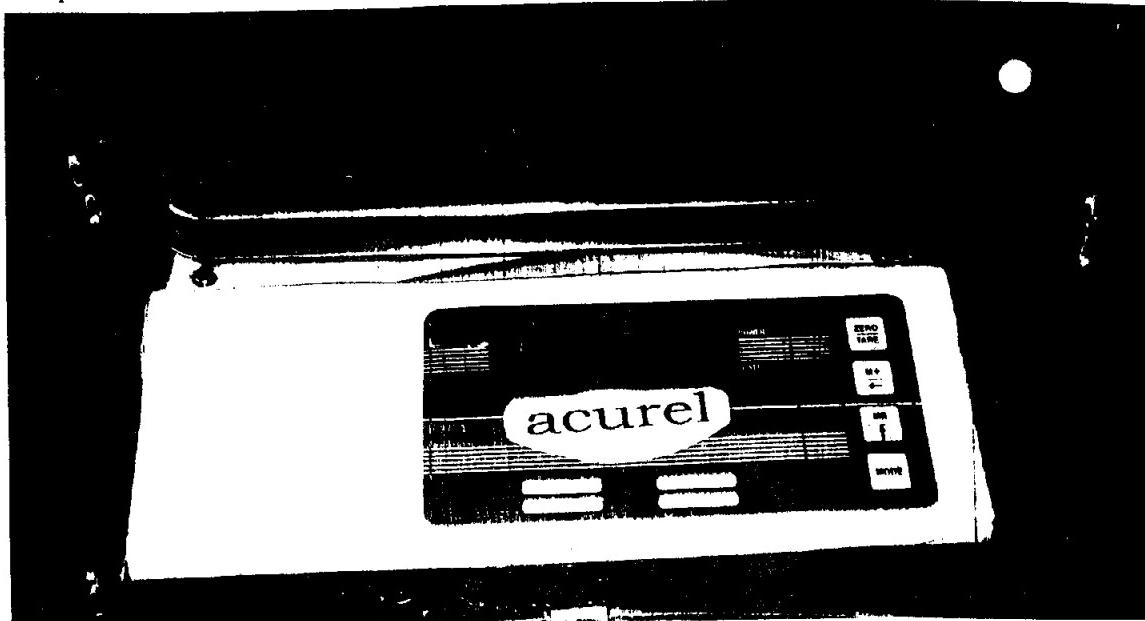


Figure-2—Schematic diagram of sealing provision of the model

From the left side of the weighing scale two holes are made by cutting the upper cover and bottom plate and fastened by a leaded wire through these two holes for receiving the verification stamp and seal. The weighing scale can not be opened without tampering the seal. The instrument has the external calibration facility with dip switch on the main PCB for prevention of any fraudulent practices. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (*n*) in the range of 100 to 50,000 for '*e*' value of 1mg. to 50mg. and with verification scale interval (*n*) in the range of 5000 to 50,000 for '*e*' value of 100 mg. or more and with '*e*' value of 1×10^k , 2×10^k or 5×10^k , where *k* is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (283)/2008]

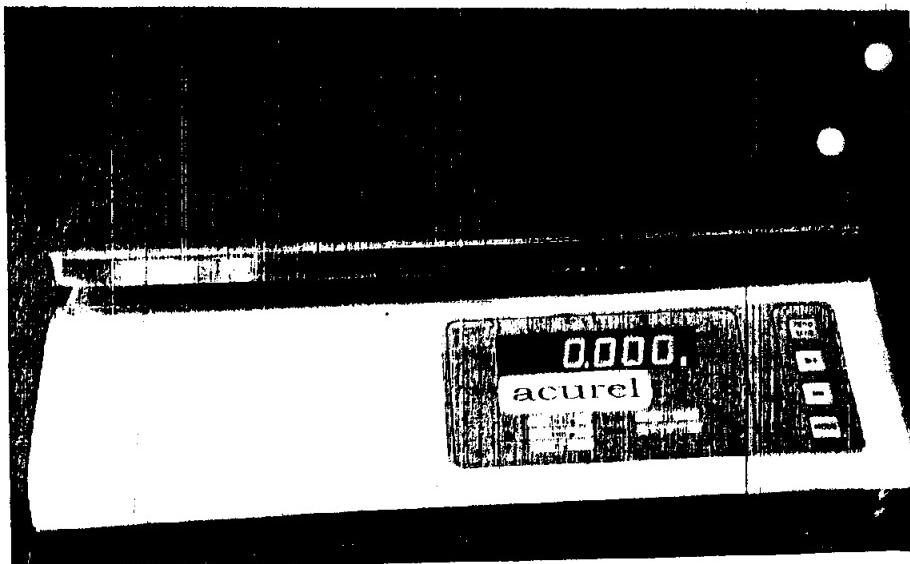
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 17 मई, 2010

का.आ. 1379.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में बर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एक्यूरल वेइंग सिस्टम प्रा. लि., नं. 9/1, फोर्थ क्रॉस स्ट्रीट, अशोका एवेन्यू, पेरियार नगर, चंन्डीगढ़-600 082 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले “एसीटी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ब्रांड का नाम ‘‘एक्यूरल’’ है (जिसे इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/08/390 समनुरोधित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धरित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्टाम्प और सीलिंग के सत्यापन के लिए वेइंग स्केल के बायों तरफ अपर कवर और तल प्लेट में काट कर दो छेद किए गए हैं और इन छेदों को लीड बायर से कसा गया है। उपकरण को सील से छेड़छाड़ किए बिना नहीं खोला जा सकता। उपकरण में बाहरी कोलिंगेशन सुनिधि है और किसी भी प्रकार के कपटपूर्ण व्यवहार को रोकने लिए मैन पीसीबी पर डीप स्विच लगाया गया है। भौंडल को सीलबंद करने के उपायों का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. से या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^{-4} , 2×10^{-4} , 5×10^{-4} , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (283)/2008]
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2010

S.O. 1379.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of medium Accuracy (Accuracy class-III) of series "ACT" and with brand name "Acurel" (hereinafter referred to as the said model), manufactured by M/s. Acurel Weighing Systems Pvt. Ltd., No. 9/1, 4th Cross Street, Ashoka Avenue, periyar Nagar, Chennai-600 082 which is assigned the approval mark IND/09/08/390.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

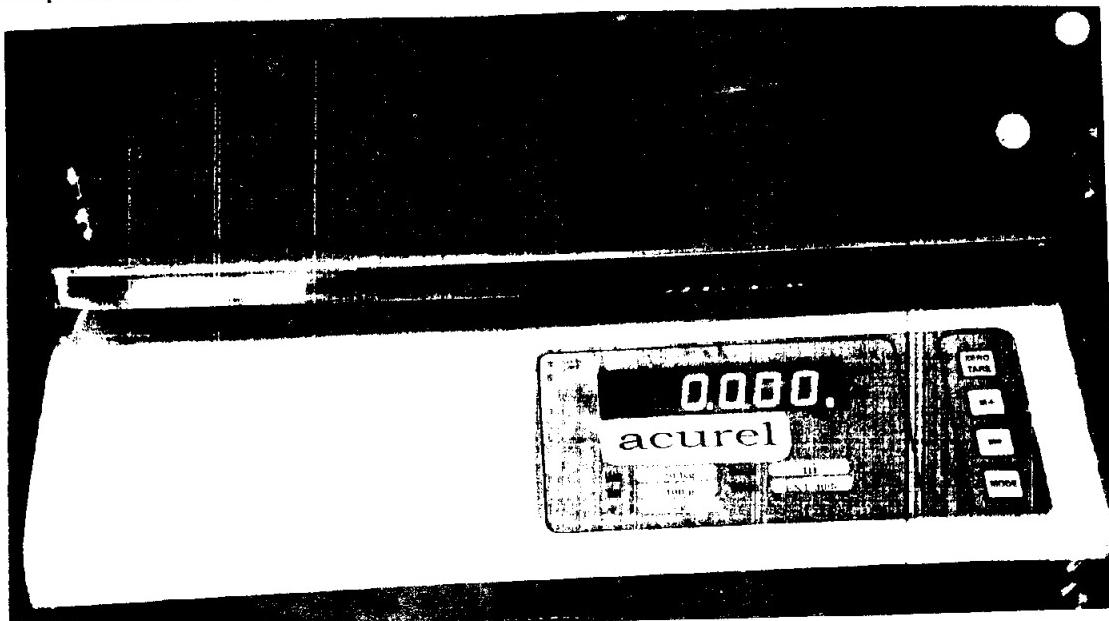


Figure-2—Schematic diagram of sealing provision of the model

From the left side of the weighing scale two holes are made by cutting the upper cover and bottom plate and fastened by a leaded wire through these two holes for receiving the verification stamp and seal. The weighing scale can not be opened without tampering the seal. The instrument has the external calibration facility with dip switch on the main PCB for prevention of any fraudulent practices. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (n) in the range of 100 to 10,000 for ' e ' value of 100mg. to 2g and with verification scale interval (n) in the range of 500 to 10,000 for ' e ' value of 5g. or more and with ' e ' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21 (283)/2008]

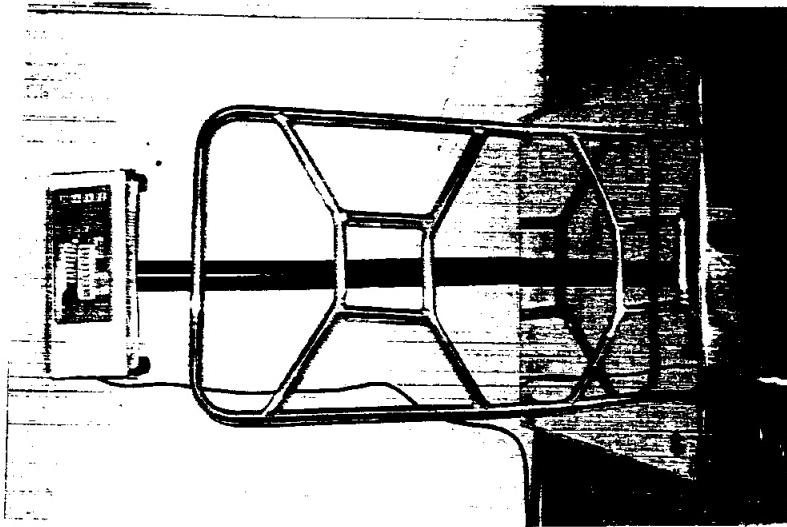
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 17 मई, 2010

का.आ. 1380.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, मैसर्स एक्यूरल वेइंग सिस्टम प्रा. लि., नं. 9/1, फोर्थ क्रॉस स्ट्रीट, अशोका एवेन्यू, पेरियर नगर, चेन्नई-600 082 द्वारा विनिर्भित उच्च यथार्थता (यथार्थता वर्ग II) वाले "एपीपी" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "एक्यूरल" है (जिसे इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/08/391 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 600 कि. ग्रा. और न्यूनतम क्षमता 2.5 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्थाप्य और सीलिंग के सत्यापन के लिए प्लेटफार्म इंडीकेटर के बायों तरफ अपर कवर और तल प्लेट में काट कर दो छेद किए गए हैं और इन छेदों को लीड बायर से कसा गया है। उपकरण को सील से छेड़छाड़ किए बिना नहीं खोला जा सकता। उपकरण में बाहरी केलिब्रेशन सुविधा है और किसी भी प्रकार के कपटपूर्ण व्यवहार को रोकने के लिए मैन पीसीबी पर डीप स्विच लगाया गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्भित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 110 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-4} और 2×10^{-4} , 5×10^{-4} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (283)/2008]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2010

S.O. 1380.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of high Accuracy (Accuracy class-II) of series "APP" and with brand name "Acurel" (hereinafter referred to as the said model), manufactured by M/s. Acurel Weighing Systems Pvt. Ltd., No. 9/1, 4th Cross Street, Ashoka Avenue, periyar Nagar, Chennai-600 082 and which is assigned the approval mark IND/09/08/391.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 600kg and minimum capacity of 2.5kg. The verification scale interval (*e*) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

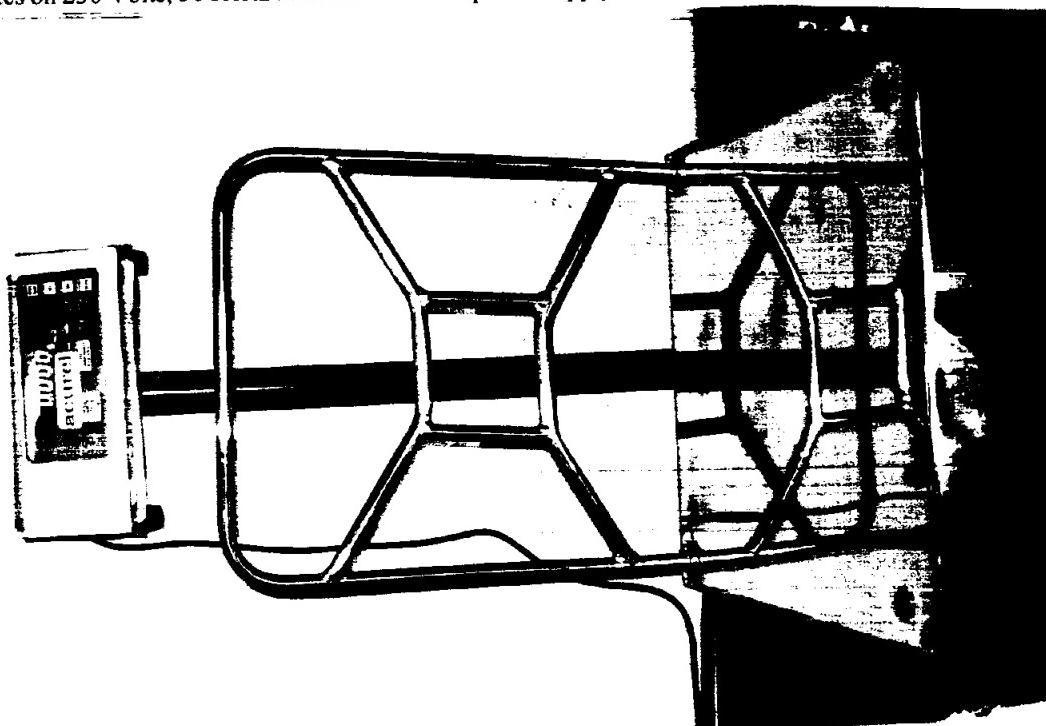


Figure-2—Sealing Diagram

From the left side of the platform indicator two holes are made by cutting the upper cover and bottom plate and fastened by a leaded wire through these two holes for receiving the verification stamp and seal. The weighing scale can not be opened without tampering the seal. The instrument has the external calibration facility with dip switch on the main PCB for prevention of any fraudulent practices. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make accuracy and performance of same series with maximum capacity above 50kg, and up to 5000kg, with verification scale interval (*n*) in the range of 5000 to 50,000 for '*e*' value of 100mg. or more and with '*e*' value of 1×10^k , 2×10^k or 5×10^k , where *k* being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (283)/2008]

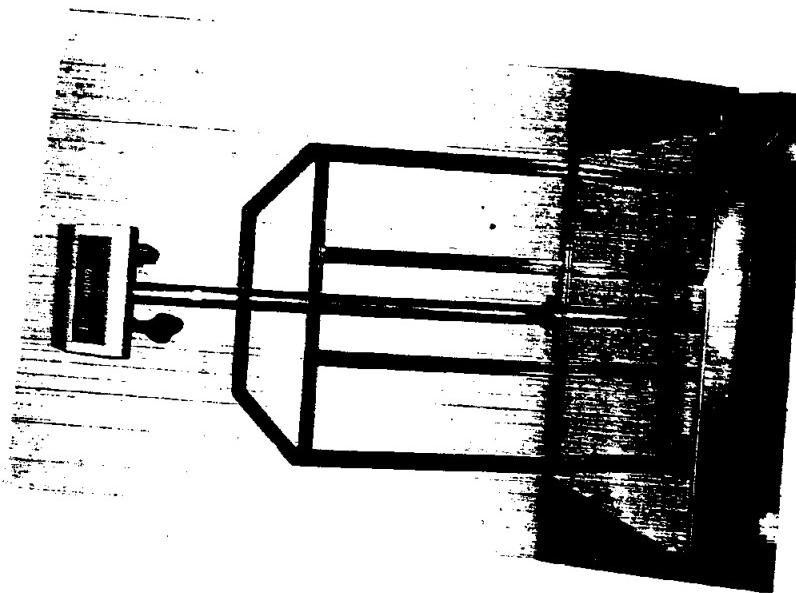
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 17 मई, 2010

का.आ. 1381.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एक्यूरल वेइंग सिस्टम प्रा. लि., नं. 9/1, फोर्थ क्रॉस स्ट्रीट, अशोका एवेन्यू, पेरियर नगर, चेन्नई-600 082 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले “एसीपी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके बांड का नाम “एक्यूरल” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/08/392 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तुलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

स्टाम्प और सीलिंग के सत्यापन के लिए वेइंग स्केल के बायों तरफ अपर कवर और तल प्लेट में काट कर दो छेद किए गए हैं और इन दोनों छेदों को लीड बायर से कसा गया है। उपकरण को सील से छेड़छाड़ किए बिना नहीं खोला जा सकता। उपकरण में बाहरी केलिब्रेशन सुविधा है और किसी भी प्रकार के कपटपूर्ण व्यवहार को रोकने लिए मैन पीसीबी पर डीप स्विच लगाया गया है। मॉडल को सीलरंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^{-4} , 2×10^{-4} , 5×10^{-4} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (283)/2008]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2010

S.O. 1381.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of medium Accuracy (Accuracy class-III) of series "ACP" and with brand name "Acurel" (hereinafter referred to as the said model), manufactured by M/s. Acurel Weighing Systems Pvt. Ltd., No. 9/1, 4th Cross Street, Ashoka Avenue, Periyar Nagar, Chennai-600 082 and which is assigned the which is assigned the approval mark IND/09/08/392.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg. and minimum capacity of 4 kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

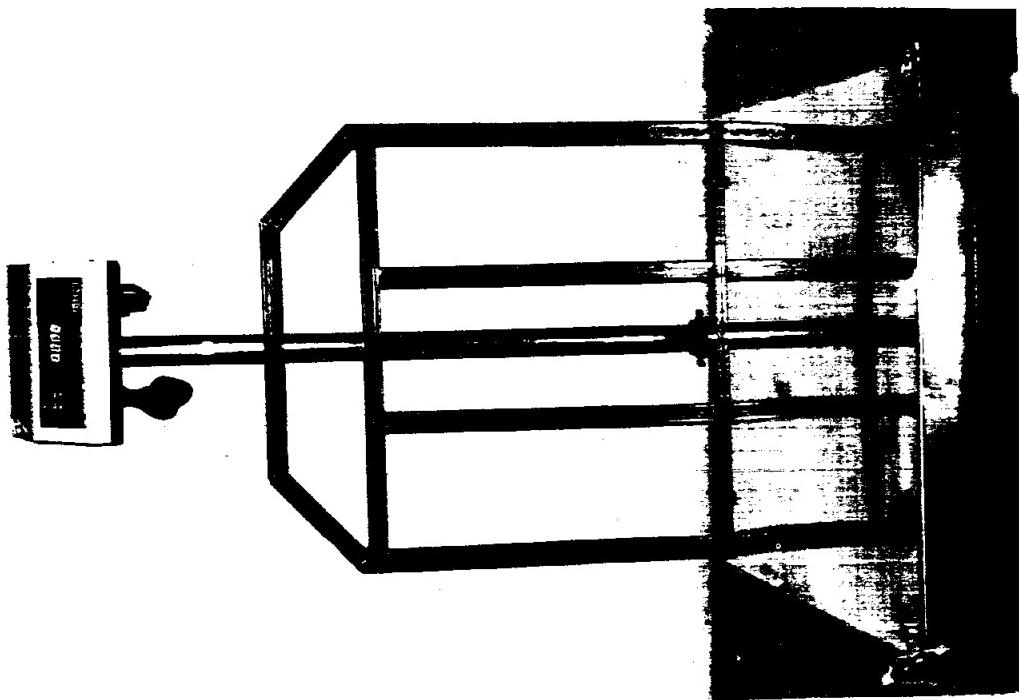


Figure-2—Sealing provision of the indicator of model

From the left side of the platform indicator two holes are made by cutting the upper cover and bottom plate and fastened by a leaded wire through these two holes for receiving the verification stamp and seal. The weighing scale can not be opened without tampering the seal. The instrument has the external calibration facility with dip switch on the main PCB for prevention of any fraudulent practices. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21 (283)/2008]

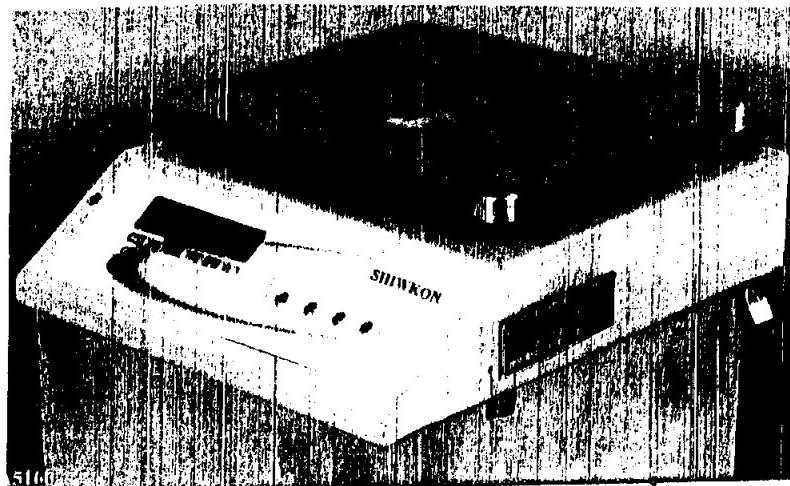
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 17 मई, 2010

का.आ. 1382.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स शिवकॉन माइक्रोवे प्रोडक्ट, 308 पुष्टम, सीमा हाल के सामने, सेटलाइट, 100 फीट श्याम-आनन्द नगर रोड, अहमदाबाद-380 051 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग II) वाले “एसडब्ल्यूटी-12” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटाप टाइप) के मॉडल का, जिसके ब्रांड का नाम “शिवकॉन” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/08/352 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्लनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

कपटपूर्ण व्यवहारों को रोकने के लिए स्टार्मिंग प्लेट पर सीलिंग पाइंट लगाया जाता है। पॉट इंडिकेटर की बाड़ी के अंदर है और पोस्ट के सामंजस्य के लिए बाड़ी पर कोई छेद नहीं दिये गया है। इन छेदों में से सील तार निकालकर सीलिंग की जाती है। इंडिकेटर को सील से छेड़छाड़ के बिना नहीं खोला जा सकता। इंडिकेटर के केबिन के भीतर डिप स्विच रखे जाते हैं और तार द्वारा सील किए जाते हैं। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया जाता है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक के “ई” मान के लिए 100 से 50,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (268)/2008]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2010

S.O. 1382.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of medium Accuracy (Accuracy class-II) of series "SWT-12" and with brand name "SHIWON" (hereinafter referred to as the said model), manufactured by M/s. Shiwkon Microweigh Product, 308, Pusham, opp. Seema hall, Setllite, 100 Feet Shyamal-Anand Nagar Road, Ahmedabad-380 051 which is assigned the approval mark IND/09/08/352.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

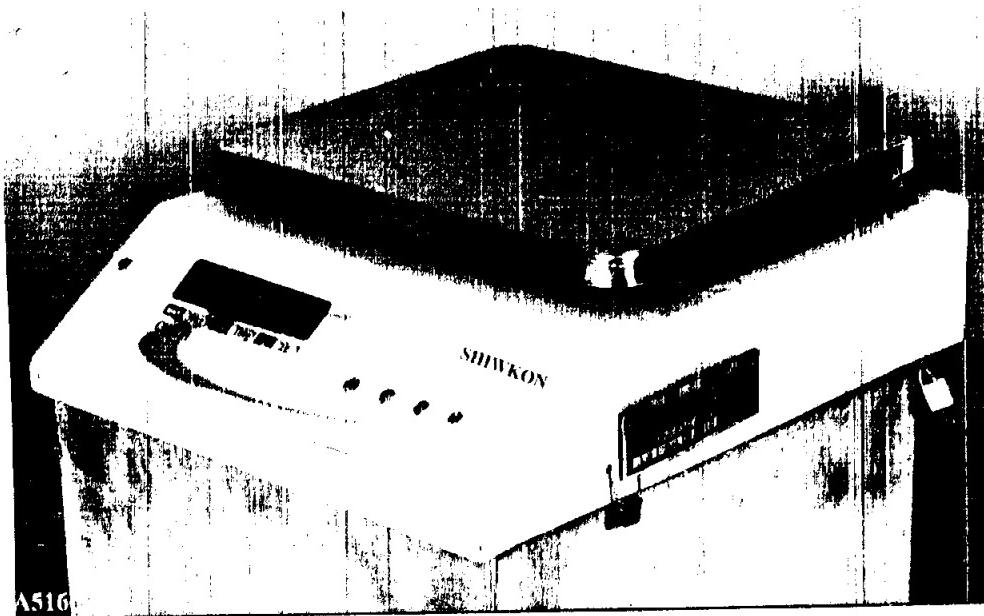


Figure-2.—Schematic diagram of sealing provision of the model

Sealing point is affixed on the stamping plat to avoid fraudulent use. The pot is inside the body of the indicator and no hole is provided on the body for adjusting the post. A seal wire is passed through these holes and is sealed. The indicator can not be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg. to 50mg. and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (268)/2008]

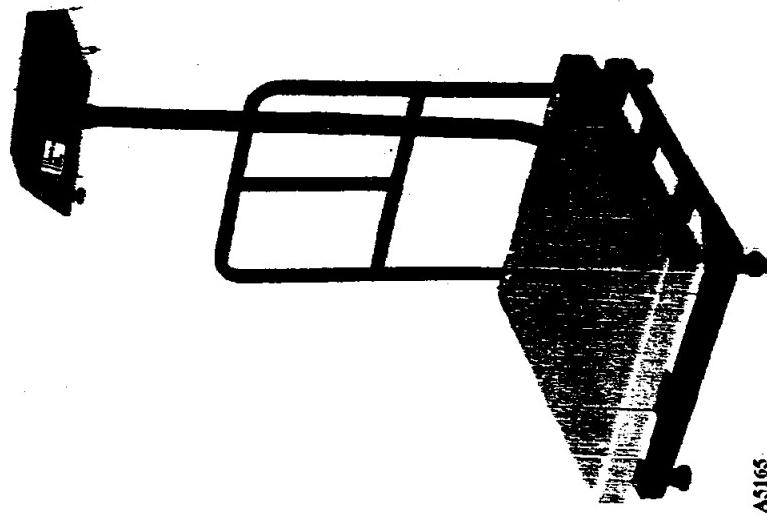
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 17 मई, 2010

का.आ. 1383.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स शिवकॉन माइक्रोवें प्रोडक्ट, 308 पुष्पम, सीमा हाल के सामने, सेटलाइट, 100 फीट इयाम-आनन्द नगर रोड, अहमदाबाद-380 051 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एसडब्ल्यूटी-7” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम “शिवकॉन” है (जिसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/08/353 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 उपकरण के मॉडल का सीलिंग प्रावधान

स्केल के बाटम प्लेट और टॉप कवर में बने छेद में से सीलिंग वायर निकाल कर सीलिंग की जाती है। स्टार्पिंग के लिए, सीलिंग वायर लीड सील के साथ स्केल की बाढ़ी में से निकाल कर स्टार्पिंग प्लेट से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्रस्तुत योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माण द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिरसे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^{-4} , 2×10^{-4} , 5×10^{-4} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (268)/2008]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2010

S.O. 1383.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium Accuracy (Accuracy class-III) of series "SWT-7" and with brand name "SHIWON" (hereinafter referred to as the said model), manufactured by M/s. Shiwkon Microweigh Product, 308, Pushpam, opp. Seema Hall, Setllite, 100 Feet Shyamal-Anand Nagar Road, Ahmedabad-380 051 which is assigned the approval mark IND/09/08/353.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

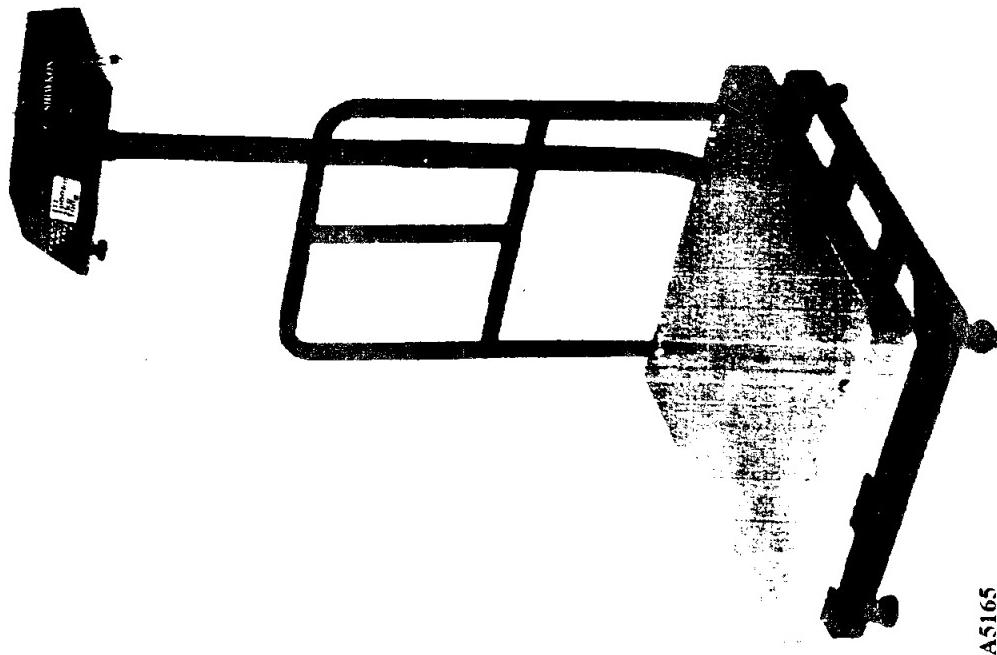


Figure-2—Sealing provision of the indicator of model

The sealing is done through the two hole in the bottom plate and top cover of the scale, and then sealing wire is passed through these two hole. Stamping plate is connected through sealing wire passing from the body of scale with the lead seal, to get the stamping. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of $1 \cdot 10^k$, $2 \cdot 10^k$ or $5 \cdot 10^k$, where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same material^e with which the said approved model has been manufactured.

[F. No. WM-21 (268)-2008]

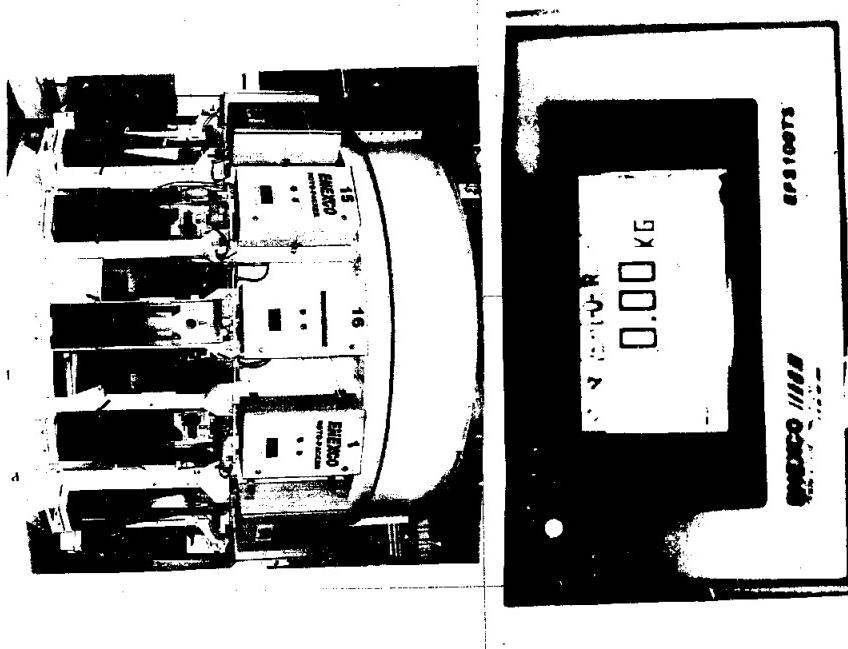
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 18 मई, 2010

का.आ. 1384.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए, मैसर्स एनेक्सकोटैक्सोलोजी इंडिया लिमिटेड, 502, उद्योग विहार, फेज-III, गुडगांव द्वारा विनिर्मित यथार्थता वर्ग, रेफ X(1) वाले "रोटो पैकर" शृंखला के स्वचालित ग्रेविमेट्रिक फिलिंग उपकरण के मॉडल का, जिसके ब्रांड का नाम "एनेक्सकोटै" है (जिसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/05 समनुरेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित स्वचालित ग्रेविमेट्रिक फिलिंग इंस्ट्रमेंट है। इसकी उत्पादन क्षमता 240 टन प्रति घंटा (अधिकतम) या 50 कि.ग्रा. प्रति बैग के 4800 सीमेंट बैग प्रति घंटा। मापमान अंतराल "डी" का मान 20 ग्रा. है। इसका वायु दाब 10 कि.ग्रा./सी.एम² है। मशीन को सीमेंट, चाय, मसाले, चीनी, चावल, नमक, सूजी, डिटर्जेंट, बीज, औषधियां पाउडर और कृषीय उत्पाद आदि की फ्री फ्लोइंग को भरने के लिए डिजाइन किया गया है। लिक्विड क्रिस्टल डिस्प्ले (एल सी डी) प्रदर्श तोलन परिणाम उपरिंशित करता है। उपकरण 440 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2 मॉडल का सौलिंग करने का योजनाबद्ध डायग्राम

स्टाम्प और सीलिंग के सत्यापन के लिए "इंडीकेटर के पिछली तरफ अपर कवर और बाटम प्लेट काट कर छेद किए गए हैं और इन छेदों को लीड वायर से कसा गया है। उपकरण को सील से छेड़छाड़ किए बिना नहीं खोला जा सकता। मॉडल को सीलबंद करने के उपबंध का एक प्रस्तुतीय योजनाबद्ध डायग्राम" उपरोक्त दिया गया है। उपकरण में केलिब्रेशन के लिए बाहरी पहुंच नहीं है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 50 कि.ग्रा. तक की क्षमता वाले होंगे।

[फा. सं. डब्ल्यू एम-21 (294)/2008]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2010

S.O. 1384.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of Automatic Gravimetric Filling Machine (Rotary type bagging machine) belonging to Accuracy Class, X(1) of 'ROTO Packer' series with brand "ENEXCO" (hereinafter referred to as the said model), manufactured by M/s. Enexco Technologies India Limited, 502, Udyog Vihar, Phase-III, Gurgaon-122 016, Haryana and which is assigned the approval mark IND/09/09/05.

The said model is a strain gauge type load cell based Automatic Gravimetric Filing Instrument. It has output of 240 tonnes per hour (max.) or 4800 cement in bags of 50kg. each per hour. The value of scale interval 'd' is 20g. Its air pressure is 10kg/cm². The machine is designed for filling free flowing products like cement, tea, spices, sugar, rice, salt, suji, detergents, seeds, pharmaceuticals powder and agricultural products etc. The Liquid Crystal Diode Display (LCD) indicates the weighing results. The instrument operates on three phase 440 Volts, 50Hertz alternative current power supply.

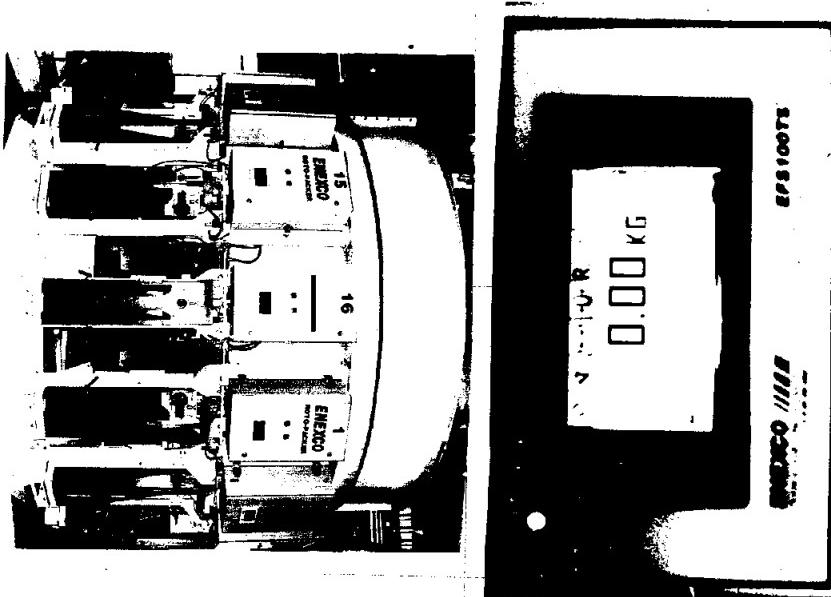


Figure-2—Sealing diagram of the sealing provision of the model

From the rear side of the indicator a hole is made by cutting the upper cover and bottom plate. This hole is fastened by a leaded wire for receiving the verification stamp and seal. The indicator cannot be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make accuracy and performance of same series with capacity above 50kg. manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21 (294)/2008]

B. N. DIXIT, Director of Legal Metrology

भारतीय मानक व्यूरो

नई दिल्ली, 18 मई, 2010

का. आ. 1385.—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भागासं. भाग	अनु	वर्ष	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3613452	09-03-2010	मैसर्स कलामंदिर ज्वैलस प्रा. लिमिटेड, 2287, सर्वे नंबर 25/पी, चौकसी बाजार कोसम्बा, सूरत-394120	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	14174	-	-	1999
2.	3614353	09-03-2010	मैसर्स श्री हैल्थ केयर, एट : ताज ता दसक्राय एट गांव नाज, अहमदाबाद	पैकेजबंद पेय जल	14543	-	-	2004
3.	3614151	09-03-2010	मैसर्स गुरुकुपा मार्केटिंग, 617, आर. के. इंडस्ट्रियल एस्टेट-1 सिद्ध कुटिर के सामने, वराण्डा रोड, सूरत-395 006	पैकेजबंद पेय जल	14543	-	-	2004
4.	3614152	09-03-2010	मैसर्स भागिरथी मैन्यूफैक्चरिंग कम्पनी, एट तथा पी ओ माजीगाम, नवसारी-396521	पैकेजबंद पेय जल	14543	-	-	2004
5.	3614050	09-03-2010	मैसर्स राधिका बिकरेज, 265, 266 महा प्रभु नगर, सर्वे नंबर 7, लिम्बायत, सूरत-394 210	पैकेजबंद पेय जल	14543	-	-	2004
6.	3613957	09-03-2010	मैसर्स रुशी एग्रो इंडस्ट्रीज, एन एच नंबर 8, छन्नी जगतनाका, दुर्गा सार्टिफिक लिमिटेड, वडौदरा-390 002	पावर श्रैशर	9020	-	-	2002
7.	3614555	09-03-2010	मैसर्स एनर्जी ग्रुप, प्लाट नंबर 1, नवनाथ सोसाइटी, चंदन गैस कालोनी के पास, कोंसर्वे रोड, सूरत-395 004	पैकेजबंद पेय जल	14543	-	-	2004
8.	3614959	12-03-2010	मैसर्स शाह भोगिलाल जेठालाल तथा ब्रदर्स, 536, भाग्यलक्ष्मी एस्टेट, स्टैंड पोस्ट टाईप वाटर मानिटर मन पसंद वे ब्रीज के पास रकनपुर, सांतेज, गांधी नगर	फंकशनल रिक्वायरमेंट फार फार फायर फाइटिंग	8442	-	-	1977
9.	3614757	12-03-2010	मैसर्स गैनेबो इंडिया लिमिटेड, प्लाट नंबर : 1302-1306, जी आई डी सी इंडस्ट्रियल एस्टेट, चंपानेर रोड, पंचमहल-380 350	फायर एक्सटिंगसिर कार्बन डायक्साइड टाईप पोर्टेबल, तथा ट्रॉली माउर्टिड	2878	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
10.	3615052	11-03-2010	मैसर्स जयपी वानकबोरी सिमेंट ग्रांडिंग यूनिट, वानकबोरी थर्मल पावर स्टेशन के पास, गांव संगोल, पी. ओ. सीनीपुर ता धसारा खेडा-388 245	पोर्टलैंड पोजेलाना सिमेंट पार्ट-1 फलायएश बेस्ट	1489	1	-	1991
11.	3615153	13-03-2010	मैसर्स उदय इंस्ट्रीज, सर्वे नंबर 231/1, रुशी पेट्रोल पम्प में पीछे, एन एच नंबर 8, गांव तथा पोस्ट टुंडला निडियाड, डिस्ट्रॉक्ट खेडा	एलुमिनियम कंडक्टर फार ओवरहैड ट्रांसमिशन परपस पार्ट 2, एलुमिनियम कंडक्टर गेलबेनाईसड स्टील रेनिफोर्सड	398	2	-	1996
12.	3615254	13-03-2010	मैसर्स उदय इंस्ट्रीज, सर्वे नंबर 231/1, रुशी पेट्रोल पम्प में पीछे, एन एच नंबर 8, गांव तथा पोस्ट टुंडला, ता निडियाड, डिस्ट्रॉक्ट खेडा	एलुमिनियम कंडक्टर फार ओवरहैड ट्रांसमिशन परपस पार्ट 5, एलुमिनियम कंडक्टर गेलबेनाईसड स्टील रेनिफोर्सड फार एक्सट्रा हाई वोल्टेज (400 के बी तथा ऊपर)	398	5	-	1992
13.	3615456	12-03-2010	मैसर्स सुदिप फार्मा लिमिटेड, प्लाट नंबर 129/1/ए, जी आई डी सी, नंदेसरी, बडोदरा-391 340	मिनरल मिक्सचर्स फार सपलीमैटिंग कैटल फोडस	1664	-	-	2002
14.	3615355	12-03-2010	मैसर्स सुदिप फार्मा लिमिटेड, प्लाट नंबर सी 1 बी/129/12, 13, 14 तथा 15 जी आई डी सी नंदेसरी, बडोदरा-391 340	डायकैलशिम फासफैट, एनिमल फोर ग्रेड	5470	-	-	2002
15.	3615658	12-03-2010	मैसर्स कैमेट वैट्स तथा फलो प्रा. लिमिटेड प्लाट नंबर 129 सी/2, जी आई डी सी भारुच-393002	थायरम बाटर डिसपोसेबल पाउडर	4766	-	-	1982
16.	3617056	22-03-2010	मैसर्स पी एन ज्वैलर्स, नवा बाजार कोसांबा, सूरत-394 120,	स्वर्ण तथा स्वर्ण धातुओं के आभूषणों शिल्पकारी शुद्धता एवं मुहरांकन	1417	-	-	1999
17.	3617157	24-03-2010	मैसर्स टरबो इंस्ट्रीज, प्लाट नंबर 3 तथा 4, ब्लाक नंबर 759, आनंद प्लास्टिक के सामने, पारनेरा, बलसाद-396 020	परफार्मेंस आफ स्माल साइज स्पार्क इगनशन इंजन	7347	-	-	1974
18.	3617662	26-03-2010	मैसर्स वार्म स्ट्रीम, आनंद साजितरा रोड, पी बी नंबर 22, विठ्ठल उद्योग नगर, डिस्ट्रॉक्ट आनंद 388 121	सोलर फ्लैट प्लेट कलैक्टर	12933	1	-	2003

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
19.	3617763	25-03-2010	मैसर्स परिक्षित इंडस्ट्रीज लिमिटेड, सर्वे नंबर 214/1, 214/2, पी ओ आइवरा, सानं-382 170	ईरीगेशन इक्यूपमेंट स्ट्रोकलर पाईप	14151	-	-	1999
20.	3617965	26-03-2010	मैसर्स लक्ष्मी इंडस्ट्रीज, डी/2, मंगल एस्टेट, फेस 1, जी आई डी सी नरोडा, अहमदाबाद	पी वी सी इंसूलेटिड केबल	694	-	-	1990
21.	3617864	26-03-2010	मैसर्स मौजी प्रोडेक्टस प्रा. लिमिटेड, प्लाट नंबर 194, जी आई डी सी, रमनगामडी, बड़ोदरा	पैकेजबंद पेय जल	14543	-	-	2004
22.	3618058	29-03-2010	मैसर्स राजरत्ना इलैक्ट्रोइस, प्रा. लिमिटेड, ब्लाक नंबर 69/70, गांव बिलेश्वरपुरा अहमदाबाद, मेहसाना हाइवे, ता कलोल, गांधीनगर	कवर्ड इलैक्ट्राड फार मैलुअल मैटल आर्क बैलिङ ऑफ कार्बन तथा कार्बन मैगेनीज स्टील	814	-	-	2004
23.	3618159	26-03-2010	मैसर्स मार्शल केबल, 58/ए, उदय इंडस्ट्रियल एस्टेट, ओढव पुलिस स्टेशन के सामने ओढव, अहमदाबाद-382 415	पी वी सी इंसूलेटिड केबल	694	-	-	1990
24.	3618260	29-03-2010	मैसर्स नीरज एक्वा, एफ/13-14, आनंद वाटिका, एस एच नंबर 8, खरेल वा मणादेवी, नवसारी-396 560	पैकेजबंद पेय जल	14543	-	-	2004
25.	3618361	29-03-2010	मैसर्स प्रमुख विवरेज, 1-57, साईनाथ सोसाइटी, सोमनाथ सोसाइटी के पास कपोदरा, सूरत	पैकेजबंद पेय जल	14543	-	-	2004
26.	3618462	29-03-2010	मैसर्स ओम साई वाटर, ए-24, हरिहंत पार्क सोसाइटी, पालसाना के पीछे, शानघ कादोदरा, सूरत	पैकेजबंद पेय जल	14543	-	-	2004
27.	3618563	29-03-2010	मैसर्स विनापक टी एम टी बार्स प्रा लिमिटेड, एस नंबर 25/1, 25/2, 24/पी, बारोत ना मौसमपुर, बयाड रोड, पोस्ट सांपा, देहमाम-382 305	हाई स्ट्रेथ डिफामर्ड स्टील तथा वायर फार कांक्रीट रनिसफोर्समेंट	1786	-	-	2008
28.	3618664	27-03-2010	मैसर्स पंजाब स्टील सर्विस मिल (बड़ोदा) प्रा. लिमिटेड, पुराना स्टेशन के पास, छन्नी रोड, बड़ोदरा-390 002	हाई स्ट्रेथ डिफामर्ड स्टील बार्स तथा वायर फार कांक्रीट रनिसफोर्समेंट	1786	-	-	2008

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
29.	3618565	30-03-2010	मैसर्स माताजी बिवरेइज, सर्वे नंबर 1202, 1203, 1205 शाह पेट्रोल पम्प के पास, बस स्टैंड के पीछे, एन एच नंबर 8, एट पोर 391 243	पैकेजबंद पेय जल	14543	-	-	2004
30.	3618866	31-03-2010	मैसर्स एच बी पटेल बिवरेइज, 2/127, गांव अबाडा, ता पादरा, बड़ोदरा	पैकेजबंद पेय जल	14543	-	-	2004

[सं. सी. एम. डी/13:11]
सो. के. महेश्वरी, वैज्ञानिक 'जी' (प्रमाणन)

BUREAU OF INDIAN STANDARDS

New Delhi, the 18th May, 2010

S.O. 1385.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following Schedule :

SCHEDULE

Sl. No.	Licences No.	Grant Dated	Name and address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3613452	09-03-2010	Kalamandir Jewellers Pvt. Ltd., 2287, Survey No. 25/p. Choski bazar, Kosamba Distt. Surat-394 120.	Gold and gold Alloys, jewellery/Artefacts-Fineness and Marking	1417	-	-	1999
2.	3614353	09-03-2010	Shree Healthcare at: Naz, Tal: Dasroi, At vill. Nājh Ahemdabad.	Packaged Drinking Water	14543	-	-	2004
3.	3614151	09-03-2010	Gurukrupa Marketing, 617, R.K. Industriat Estate-1 Opp, Siddkutir, Varachha Road, Surat-395 006.	Packaged Drinking Water	14543	-	-	2004
4.	3614252	09-03-2010	Bhagirathi Mfg Co. at and PO, Majigam Navsari-396 521.	Packaged Drinking Water	14543	-	-	2004
5.	3614050	09-03-2010	Radhika Beverages 265, 266 Maha Prabhu Nagar, Survey No. 7, Limbayat Surat-394 210.	Packaged Drinking Water	14543	-	-	2004
6.	3613957	09-03-2010	Rushi Agro Industries NH No 8, Chhani Jakatnaka, Near Durga Scientific Limited, Vadodara-390 002.	Power Threshers	9020	-	-	2002
7.	3614555	09-03-2010	Energy Group Plot No.1, Navnath Society Nr. Chandan Gas Godown, Causeway Road, Surat-395 004.	Packaged Drinking Water	14543	-	-	2004

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
8.	3614959	12-03-2010	Shah Bhogilal Jethalal & Bros, 530, Bhagylaxmi Estate, Nr. Man Prasad Weigh Bridge, Rakanpur, Santej, Gandhinagar.	Functional requirements for post type water monitor for fire fighting	8442	-	-	1977
9.	3614757	12-03-2010	Gunnebo India Ltd., Plot No. 1302-1306, GIDC Industrial Estate Champaner Road, Panchmahal-380 350.	Fire Extinguisher, Carbon Dioxide type (Portable and) Trolley Mounted	2878	-	-	2004
10.	3615052	11-03-2010	Jaypee Wanakbori Cement Grinding Unit, Near Wanakbori Thermal Power Station Village Sangol, P.O. Sonipur, Taluka Thasara Kheda-388 245.	Specification for Portland pozzolana cement Part 1 Flyash based	1489	1	-	1991
11.	3615153	13-03-2010	Uday Industries Survey No. 231/1, Behind Rushi Petrol Pump, N.H. No. 8 Village and Post Tundel, Tal Nadiad Distt-Kheda.	Aluminium conductors for overhead transmission purposes: Part 2 Aluminimum conductors, galvanized steel reinforced.	398	2	-	1996
12.	3615254	13-03-2010	Uday Industries Survey No. 213/1, Behind Rushi Petrol Pump, N.H. No. 8 Village and Post Tundel, Tal Nadiad Distt-Kheda.	Aluminium conductors for overhead transmission purposes: Part 5 Aluminimum conductors, Galvanized Steel reinforced for extra high voltage (400 kv and above)	398	5	-	1992
13.	3615456	12-03-2010	Sudeep Pharma Ltd., Plot No. 129/1/A, GIDC Estate, Nandesari Vadodara-391 340.	Mineral Mixtures for Supplementing Cattle Feeds-Specification.	1664	-	-	2002
14.	3615355	12-03-2010	Sudeep Pharma Ltd., Plot No. C-1B/129/12,13,14, & 15/A, GIDC Estate, Nandesari Vadodara-391 340.	Discalcium Phosphate, Animal Feed Grade- Specification.	5470	-	-	2002
15.	3615658	12-03-2010	Chemet Wets and flow Pvt. Ltd., Plot No. 129/C/2 GIDC Estate Bharuch-393 002.	Thriam Water Dispersible Powders	4766	-	-	1982
16.	3617056	22-03-2010	P.N. Jewellers Nava Bazar Kosamba, Surat-394 120.	Gold and Gold Alloys, Jewellery/ Artefacts-Fitness and Marking.	4417	-	-	1999
17.	3617157	24-03-2010	Turbo Industries Plot No. 3 & 4, Block No.759, Opp. Anand Plastics, Parnera, Valsad-396 020.	Specification for performance of small size Spark Ignition Engines	7347	-	-	1974
18.	3617662	26-03-2010	Warm Stream Anand- Sojitra Road, P.B.N. 22, Vittthal Udyognagar, Distt. Anand-388 121.	Solar flat plate collector-Specification: Part I Requirements	12933	1	-	2003
19.	3617763	25-03-2010	Parixit Industries Ltd Survey No. 214/1, 214/2, PO. Iyara Sanand-382 170.	Irrigation Equipment- Sprinkler Pipe	14151	1	-	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
20.	3617965	26-03-2010	Laxmi Industries D/2, Mangal Estate, Phase-I, GIDC, Naroda Ahemdabad.	PVC Insulated Cables	694	-	-	1990
21.	3617864	26-03-2010	Moji Products Pvt Ltd., Plot No. 194 GIDC Ramangamdi Vadodara.	Packaged Drinking Water	14543	-	-	2004
22.	3618058	29-03-2010	Raajratna Electrodes Pvt Ltd Block No 69/70, Village : Bileshwarapura, Ahemdabad Mehsana Highway, Tal : Kalol Gandhinagar.	Covered electrodes for manual metal arc welding of carbon and carbon manganese steel	814	-	-	2004
23.	3618159	26-03-2010	Marshal Cables 58/A, Uday Indl. Estate. Opp. Odhav Police Station, Odhav Ahemdabad-382 415.	PVC Insulated Cables	694	-	-	1990
24.	3618260	29-03-2010	Niraj Aqua F/13-14, Anand Vatika , N.H. No.8, Kharel, Taluka Gandevi, Navsari-396 560.	Packaged drinking water	14543	-	-	2004
25.	3618361	29-03-2010	Pramukh Beverages 1-57, Sai Nath Society, Kapodara Surat.	Packaged drinking water	14543	-	-	2004
26.	3618462	26-03-2010	Om Sai Water A-24, Harihath Park Soc B/H Palsana, Shangh Kapodara Surat.	Packaged drinking water	14543	-	-	2004
27.	3618563	29-03-2010	Vinayak TMT Bars Pvt Ltd S.No. 25/1 ,25/2, 24/P, Borat Na Mosampur, Bayad Road, Post Sampa, Dehgam-382 305.	High strength deformed steel bars and wires for concrete reinforcement	1786	-	-	2008
28.	3618664	27-03-2010	Punjab Steel Rolling Mills (Baroda) Pvt Ltd Old Station, Chhani wadi, Vadodara-390 002.	High strength deformed steel bars and wires for concrete reinforcement	1786	-	-	2008
29.	3618765	30-03-2010	Mataji Beverages Survey No. 1202,1203,1203 1/2, Shah Petrol Pump, behind Bus Station, NH No.8, At POR-391 243.	Packaged drinking water	14543	-	-	2004
30.	3618866	31-03-2010	HB Patel Beverages 2/127, Village Ambada, Tal Padia, Vadodara	Packaged drinking water	14543	-	-	2004

No. CMD/13:11]
C. K. MAHESHWARI, Scientist-G (Certification)

नई दिल्ली, 20 मई, 2010

का.आ. 1386.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अधिक्रमित* भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 4602: 2009 एक सौ पचास से कम व्यक्तियों के लिए जीवन रक्षक नौकाओं की व्यापक अपेक्षाएं और परीक्षण (पहला पुनरीक्षण)	4602: 1968	31 अगस्त, 2009
2.	आई एस 10694 (भाग 1): 2009 स्वचल वाहन-रिम सामान्य अपेक्षाएं भाग-1 नामपद्धति, पदनाम, मुहरांकन तथा मापन (दूसरा पुनरीक्षण)	10694 (भाग 1): 1993	31 जुलाई, 2009
3.	आई एस 10694 (भाग-3) : 2009 स्वचल वाहन रिम-सामान्य अपेक्षाएं भाग-3 व्यावसायिक वाहन रिम (दूसरा पुनरीक्षण)	10694 (भाग 3): 1991	31 जुलाई, 2009
4.	आई एस 10694 (भाग-6) : 2009 स्वचल वाहन रिम-सामान्य अपेक्षाएं भाग-6 कृषी ट्रैक्टर, टिलर्स और साधनों के लिए रिम (दूसरा पुनरीक्षण)	10694 (भाग 6): 1988	31 जुलाई, 2009

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टी ई डी/जी-16]

टी. वी. सिंह, वैज्ञानिक एफ एवं प्रमुख (टी ई डी)

New Delhi, the 20th May, 2010

S.O. 1386.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No., Year & title of the Indian Standards Established	No. & year of India Standards, if any Superseded by the New Indian Standard	Date Established
(1)	(2)	(3)	(4)
1.	IS 4602 : 2009 Broad requirements and testing of lifeboats for less than one hundred fifty persons (first revision)	4602: 1968	31st Aug., 2009
2.	IS 10694 (Part I) : 2009 Automotive vehicles Rims General requirements Part I Nomenclature, designation, marking and measurement (second revision)	10694 (Part 1): 1993	31st July, 2009
3.	IS 10694 (Part 3) : 2009 Automotive vehicles Rims General requirements Part 3 Commercial vehicle runs (second revision)	10694 (Part 3): 1991	31st July, 2009
4.	IS 10694 (Part 6) : 2009 Automotive vehicles Rims General requirements Part 6 Rims for agricultural tractors, tillers and implements (second revision)	10694 (Part 6): 1988	31st July, 2009

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bhadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TED/G-16]
T. V. SINGH, Scientist F & Head (Transport Engg.)

नई दिल्ली, 19 मई, 2010

का. आ. 1387.—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भाग सं./भाग/खण्ड/वर्ष
1.	3615961	17-03-2010	मेक्स एग्रो इंडस्ट्रीज, 334/1, मेशी महालपट्टने तालुका दिओली जिला नाशिक-423102	पैकेजबंद पीने का पानी (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	भाग 14543 : 2004
2.	3616256	19-03-2010	अंबर अक्वा, गाला नं. 11, 9 एकड़, कोठारी कंपाउण्ड, चितलसर, मानपाडा, टिकूजिनिवाडी, ठाणे (प)	पैकेजबंद पीने का पानी (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	भाग 14543 : 2004

[सं. क्र.प्र.वि./13:11]

सी. के. माहेश्वरी, वैज्ञानिक 'जी' (प्रमाणन)

New Delhi, the 19th May, 2010

S.O. 1387.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following Schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the Party	Product	IS No./Part/Sec/Year
1.	3615961	17-03-2010	Maxx agro Industries, 334/1, Meshi-Mahalpatne Road, At Post, Mahalpatne Tal Deola, Dist Nashik-423102	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543:2004
2.	3616256	19-03-2010	Ambar Aqua, Gala No. 11, 9 Acre, Kothari Compound, Chitalsar, Manpada, Tikujiniwadi Thane (W)	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543:2004

[No. CMD/13:11]

C.K. MAHESHWARI, Scientist—"G" (Certification)

नई दिल्ली, 19 मई, 2010

का. आ. 1388.—भारतीय मानक व्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि वे लाइसेंस जिनके विवरण नीचे अनुसूची में दिए गए हैं, उनके आगे दर्शाए गए तिथि से समाप्त हो गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रकृति सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1.	7969515	सरस्वती ब्रेवरेजेस, सर्वे नंबर 68/2बी, प्लॉट नं. 39, मंडल तालुका शिरपूर, जिला धूले	पैकेजबंद पीने का पानी (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	22-03-2010 भाग 14543 : 2004

[सं. क्र.प्र.वि./13:13]

सी. के. माहेश्वरी, वैज्ञानिक 'जी' (प्रमाणन)

New Delhi, the 19th May, 2010

S.O. 1388.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licence No.	Name and address of the licensee	Article/Process with relevant Indian Standard covered by the licence cancelled	Date of Cancellation
1.	7969515	Saraswati Beverages, Survey No. 68/2B, Plot No. 3, Mandal, Tal. Shirpur, Dist Dhule	Packaged Drinking Water (Other than Packaged Natural Mineral Water) IS : 14543 : 2004	22-03-2010

[No. CMD/13:13]

C.K. MAHESHWARI, Scientist—"G" (Certification)

नई दिल्ली, 24 मई, 2010

का.आ. 1389.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
1.	आई एस/आईएसओ 16124:2004 इस्पात तार हेतु छड़े-आयाम एवं छूटे	—	30-04-2009

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 4/टी-30]

श्री पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 24th May, 2010

S.O. 1389.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & year of India Standards, if any Superseded by the New Indian Standard	Date Established
1.	IS /ISO 16124 : 2004 - Hot Steel wire rod - Dimensions and tolerances	—	30-04-2009

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bhadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MTD 4/T-30]

SHRI P. GHOSH, Scientist 'F' & Head (MTD)

पेट्रोलियम और प्राकृतीक गैस मंत्रालय

नई दिल्ली, 21 मई, 2010

का. आ. 1390.—केन्द्रीय सरकार को लोकहित में रह आवश्यक प्रतीत होता है कि तामिलनाडु राज्य में चेनै से कर्नाटक राज्य में बैंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इककीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. अल्लप्प, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन डीवीजन, नं 142/2, 2 क्रास, मुनिरेडी लेओट, होरमाव मेन रोड, डोड बानसवाडी, बैंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालुका : कोलार	जिला : कोलार	राज्य : कर्नाटक		
		क्षेत्रफल	हेक्टर	एयर
गाँव का नाम	सर्वेक्षण सं/उप-खण्ड सं.			वर्ग मिटर
1	2	3	4	5
वडागेरे	74	00	05	16
	1	00	00	12
	130	00	30	77
स्वामीगला गोल्लाहल्लि	38	00	02	02
	40	00	03	56
अग्रहरा सोमरसन हल्लि	158	00	15	44

1 पटना	2 132	3 00	4 07	5 20
	145	00	00	72
	35	00	11	34
	42	00	09	66
	33	00	12	96
	41	00	09	72
	135	00	10	44
	40	00	09	43
	143	00	05	20
	142	00	03	87
	130	00	08	70
नीलकण्ठपुरा	46	00	25	20
	16	00	04	38
मीठमल्लहल्ली	17 77	00 00	00 01	62 00
	5	00	05	22
	3	00	04	32
	15	00	16	92
	21	00	04	41
	2	00	06	30
	37	00	01	80
	53	00	95	40

[फा सं. आर.-25011/8/2007-ओ.आर.-1]

बी. के. दत्ता, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 21st May, 2010

S.O. 1390.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by the Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri R. Allappa, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, House No – 142/2, 2nd cross, Muni Reddy Layout, Horamavu Main Road, Dodda Bansavadi, Bengaluru – 560043.(Karnataka)

SCHEDULE

Taluka : Kolar		District : Kolar		State : Karnataka			
Name of the Village	Survey No/Sub-Division No.	Area			Hectare	Are	Sq. Mtr.
		1	2	3			
Vadagere	74			00	05	16	
		1		00	00	12	
		130		00	30	77	
Swamigalagollahalli	38			00	02	02	
	40			00	03	56	

1	2	3	4	5
Agraharasomarasanahalli	158	00	15	44
Patna	132	00	07	20
	145	00	00	72
	35	00	11	34
	42	00	09	66
	33	00	12	96
	41	00	09	72
	135	00	10	44
	40	00	09	43
	143	00	05	20
	142	00	03	87
Neelakantapura	130	00	08	70
	46	00	25	20
	16	00	04	38
	17	00	00	62
Mittamalahalli	77	00	01	00
	5	00	05	22
	3	00	04	32
	15	00	16	92
	21	00	04	41
	2	00	06	30
	37	00	01	80
	53	00	95	40

नई दिल्ली, 21 मई, 2010

का. आ. 1391.—केन्द्रीय सरकार को लोकांहत में वह आवश्यक प्रतीत होता है कि तामिलनाडु राज्य में चेन्नै से कर्नाटक राज्य में बैंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए :

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए वह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना में मल्लम अनुभूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए :

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज बाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है :

कोई व्यक्ति, जो उक्त अनुभूची में वाणित भूमि में हितवद्ध है, उस तारीख में जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भागत के राजपत्र में यथा प्रकाराशत इस अधिनियम की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. अल्लप्प, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन डीवीजन, नं 142/2, 2 क्रास, मुनिरेडी लेओट, होगमाव मेन रोड, डोड जानसवाडी, बैंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा।

अनुसूची

तालुका : मालुर	जिला : कोलार	राज्य : कर्नाटक		
		क्षेत्रफल		
		हेक्टर	एकर	वर्ग मिटर
1	2	3	4	5
कुंटानहल्लि	53	00	16	65
	56	00	04	14
	61	00	00	81
	62	00	02	76
	47	00	03	95
	45/2	00	05	23
	52/पी-1	00	04	06

1 कारण्डा	2 45	3 00	4 00	5 16
	8/2	00	03	97
	16	00	05	63
	16/पी-8	00	02	71
निधरमंगला	36	00	02	37
	50/5-वी	00	00	24
	19	00	35	40
	48/4	00	04	67
	21	00	05	39
बावनहल्ल	21	00	07	10
	20/2	00	00	67
	17/1	00	04	95
	17/11	00	00	29
	31/3	00	04	18
	31/8	00	01	01
	31/6	00	00	17
	31/5	00	01	52
कडसनहल्ल	10/2	00	00	69
	53/2	00	01	92
	39/2	00	06	39
	40	00	04	54
	41	00	00	38

1	2	3	4	5
पुरमाकनहल्ल	16/1	00	05	64
	16/5	00	05	35
	15/8	00	03	51
	9/3	00	00	39
दोड्हाशिवारा	42	00	29	58
वडगनहल्ल	75/2	00	03	66
	31/1	00	05	80
	74/1	00	01	09
चिककासिवारा	54	00	06	88
भाइकटथुर	49/1	00	03	46
	70/7ए	00	06	63
	70/5	00	00	67
	71/4	00	00	35
	71/5	00	02	08
	71/1	00	01	41
	43	00	01	83
	172	00	11	15
	70/2	00	00	51
	49/1बी	00	00	39
	168	00	23	51
	159	00	08	63
	51	00	09	93

1	2	3	4	5
	174	00	17	00
	50/2	00	00	76
नाचोहल्ल	72	00	11	48
	75/2	00	00	95
हारोहल्ल	21/2	00	13	16
माडिवाला	8/4	00	05	21
	11	00	05	54
	12/5ए	00	14	40
	12/4	00	08	95
	155/1	00	05	23
	175	00	09	90
	65	00	09	00
चोकंडहल्ल	132/2	00	01	85
	127	00	14	73
	135/1	00	03	97
	139/3	00	02	98
	120/1	00	01	24
	170/1	00	01	08
	170/2	00	03	96
	139/2	00	03	30
योशवन्तपुरा	20/4	00	00	49
	81/3	00	05	49
	82/4-धी3	00	12	83

1	2	3	4	5
	26/5	00	05	58
	19/1	00	02	31
	19/2	00	01	69
	19/4	00	01	14
	19/6-पी2	00	00	84
	20/3	00	00	51
	98/1 19/7	00 00	00 01	83 22
	85/2	00	02	43
थिम्मापुरा	3	00	01	10

[फा सं. आर.-25011/8/2007-ओ.आर.-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 21st May, 2010

S. O. 1391.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by the Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the

acquisition of the right of user therein or laying of the pipeline under the land to
 Shri R. Allappa, Competent Authority, Indian Oil Corporation Limited, Pipelines
 Division, House No – 142/2, 2nd cross, Muni Reddy Layout, Horamavu Main
 Road, Dodda Bansavadi, Bengaluru – 560043.(Karnataka)

SCHEDULE

Taluka : Malur		District : Kolar	State : Karnataka		
Name of the Village	Survey No/Sub-Division No.	Area			Sq. Mtr.
		Hectare	Are		
1	2	3	4	5	
Kuntanahalli	59	00	16	65	
	58	00	04	14	
	61	00	00	81	
	62	00	02	76	
	47	00	03	95	
	45/2	00	05	23	
Karangutta	52/P-1	00	04	06	
	45	00	00	16	
	8/2	00	03	97	
	16	00	05	63	
	16/P-8	00	02	71	
Nidaramangala	36	00	02	37	
	50/5-B	00	00	24	
	19	00	35	40	
	48/4	00	04	67	
	21	00	05	39	
Bhuvanahalli	21	00	07	10	
	20/2	00	00	67	

1	2	3	4	5
	17/1	00	04	95
	17/11	00	00	29
	31/3	00	04	18
	31/8	00	01	01
	31/6	00	00	17
	31/5	00	01	52
Kadasonnahalli	10/2	00	00	69
	53/2	00	01	92
	39/2	00	06	39
	40	00	04	54
	41	00	00	38
Puramakanahalli	16/1	00	05	64
	16/5	00	05	35
	15/8	00	03	51
	9/3	00	00	39
Doddashivara	42	00	29	58
Vadaganahalli	75/2	00	03	66
	31/1	00	05	80
	74/1	00	01	09
Chikkashivara	54	00	06	88
	49/1	00	03	46

1	2	3	4	5
Doddakadathuru	70/7A	00	06	63
	70/5	00	00	67
	71/4	00	00	35
	71/5	00	02	08
	71/1	00	01	41
	43	00	01	83
	172	00	11	15
	70/2	00	00	51
	49/1B	00	00	39
	168	00	23	51
	159	00	08	63
	51	00	09	93
	174	00	17	00
	50/2	00	00	76
Nachohalli	72	00	11	48
	75/2	00	00	95
Harohalli	21/2	00	13	16
Madivala	8/4	00	05	21
	11	00	05	54
	12/5A	00	14	40
	12/4	00	08	95

1	2	3	4	5
	155/1	00	05	23
	175	00	09	90
	65	00	09	00
Chakkondahalli	132/2	00	01	85
	127	00	14	73
	135/1	00	03	97
	139/3	00	02	98
	120/1	00	01	24
	170/1	00	01	08
	170/2	00	03	96
	139/2	00	03	30
Yeshavanthapura	20/4	00	00	49
	81/3	00	05	49
	82/4-P3	00	12	83
	26/5	00	05	58
	19/1	00	02	31
	19/2	00	01	69
	19/4	00	01	14
	19/6-P2	00	00	84
	20/3	00	00	51
	98/1	00	00	83

1	2	3	4	5
	19/7	00	01	22
	85/2	00	02	43
Thimmapura	3	00	01	10

[F. No. R-25011/8/2007-O.R.-I]
B. K. DATTA, Under Secy.

नई दिल्ली, 21 मई, 2010

का. आ. 1392.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तामिलनाडु राज्य में चेन्नै से कर्नाटक राज्य में बैंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. अल्लप्प, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन डीवीजन, नं 142/2, 2 क्रास, मुनिरेडी लेओट, होरमाव मेन रोड, डोड बानसवाडी, बैंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालूका : मुलबागल	जिला : कोलार	राज्य : कर्नाटक		
		क्षेत्रफल		
		हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5
चिककगुद्दाहल्लि	21/2	00	03	81
जाथमंगलाअप्रहरा	94/पी	00	20	40
कीलागाणी	6/5	00	09	92
	97	00	00	61
मेलागाणी	81/4	00	05	80
	26/1, 2	00	00	07
	150	00	01	83
	77/4	00	27	58
	77/1	00	03	94
पडाकास्ति	70	00	30	24
	77/1, 2	00	02	00
कन्नथा	40/2	00	06	30
कुरुबा चन्दुमनाहल्लि	43	00	05	25
	2/1	00	00	88
	47/1	00	03	07
	64	00	02	34
	46/1, 2	00	05	48
	72	00	13	14

1	2	3	4	5
चन्नापुरा	116/10	00	13	97
येडाहल्लि	88	00	13	66
	105/पी1-पी2	00	10	67
चित्थेरी	63	00	02	77
	56/3	00	16	37
	58	00	00	70
	55/5	00	01	00
	66/2	00	35	00
उरकुटेमिहुरु	261/3	00	03	48
	220	00	02	61
	9/2	00	08	04
	9/1	00	05	35
	350/1	00	01	00
	12	00	00	18
	34/10	00	12	33
	48/1	00	06	88
	257/4	00	04	88
	259/7	00	25	48
	11/2	00	09	58
	16/1-पी1	00	02	50
आवलम्बनकालगदा	41/1	00	03	00
	20/1	00	10	00

1	2	3	4	5
मिणजेनहल्ल	129/2	00	08	02
	17/2	00	49	73
	133/5	00	02	03
	115	00	14	44
	27/4	00	00	22
बन्डहल्ल	122	00	07	92

[फा सं. आर.-25011/8/2007-ओ.आर.-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 21st May, 2010

S. O. 1392.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by the Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri R. Allappa, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, House No – 142/2, 2nd cross, Muni Reddy Layout, Horamavu Main Road, Doddabansavadi, Bengaluru – 560043.(Karnataka)

SCHEDULE

Taluka : Mulbagal		District : Kolar	State : Karnataka		
Name of the Village		Survey No/Sub-Division No	Area		
			Hectare	Are	Sq. Mtr.
1	2		4	5	6
Chikkaguttahalli	21/2		00	03	81
Jathamangala Agrahara	94/P		00	20	40
Keelagani	6/5		00	09	92
	97		00	00	61
Melagani	81/4		00	05	80
	26/1, 2		00	00	07
	150		00	01	83
	77/4		00	27	58
	77/1		00	03	94
Padakasti	70		00	30	24
	77/1, 2		00	02	00
Kannatha	40/2		00	06	30
Kurubara Chadumanahalli	43		00	05	25
	2/1		00	00	88
	47/1		00	03	07
	64		00	02	34
	46/1, 2		00	05	48
	72		00	13	14

1	2	4	5	6
	Channapura	116/10	00	13
Yedahalli	88	00	13	66
	105/P1-P2	00	10	67
Chittheri	63	00	02	77
	56/3	00	16	37
	58	00	00	70
	55/5	00	01	00
	66/2	00	35	00
Urukuntemitturu	261/3	00	03	48
	220	00	02	61
	9/2	00	08	04
	9/1	00	05	35
	350/1	00	01	00
	12	00	00	18
	34/10	00	12	33
	48/1	00	06	88
	257/4	00	04	88
	259/7	00	25	48
	11/2	00	09	58
	16/1P-1	00	02	50
Avalamarakalagatta	41/1	00	03	00
	20/1	00	10	00

1	2	4	5	6
Minijenahalli	129/2	00	08	02
	17/2	00	49	73
	133/5	00	02	03
	115	00	14	44
	27/4	00	00	22
Bandahalli	122	00	07	92

[F. No. R-25011/8/2007-O.R.-I]
B. K. DATTA, Under Secy.

नई दिल्ली, 21 मई, 2010

का. आ. 1393.—केंद्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तामिलनाडु राज्य में चेन्नै से कर्नाटक राज्य में बैंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केंद्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितवद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इककीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. अल्लप्प, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन डीवीजन, नं 142/2, 2 क्रास, मुनिरेडी लेओट, होरमाव मेन रोड, डोड बानसवाडी, बैंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालुका : बंगारपेट	जिला : कोलार	राज्य : कर्नाटक		
		क्षेत्रफल		
		हेक्टर	एयर	वर्ग मिटर
1	2	3	4	5
जयमंगला	130/पी2,3,10,19	00	18	00
	3/3	00	10	17
	146/पी1,2	00	09	36
	144/2	00	07	16
	153/1	00	06	55
	147/2	00	04	37
	148/2	00	00	75
	147/4	00	02	13
	11/2	00	03	02
	11/1	00	06	80
	148/5	00	00	36
	1/2	00	06	25
	138	00	04	86
	142/2	00	07	68
	139	00	06	21
	9/4	00	06	56
वादंडाहल्ल	56	00	12	28
	52	00	07	63

1	2	3	4	5
	54	00	07	62
	46	00	17	10
	69	00	12	69
	67	00	02	12
	65	00	02	16
	124	00	01	80
	58	00	00	90
कामण्डहल्ली	74	00	07	56
	76	00	05	10
	58/2पी1, 2/पी2	00	04	82
	40/1	00	03	08
	42/पी3	00	04	60
	55/3पी4	00	00	83
	69	00	05	30
कंगानल्लुर	62	00	23	40
मावहल्ल	129	00	12	05
	63	00	02	66
	57/27,3,4,5,6,10,14,20	00	08	80
	48/1	00	05	65
	57/19	00	06	30
	58/1	00	09	00

1	2	3	4	5
	19	00	00	26
	18/3बी	00	06	21
	62/3	00	06	48
नायकरहल्ल	67/पी	00	14	34
	51/1, 2	00	04	15
	62	00	00	51
	50	00	09	12
	78/4	00	03	65
	58	00	03	96
	25/1	00	01	33
	64	00	04	03
	68/2	00	02	40
	79/3	00	02	63
	63/1	00	04	14
	25/3	00	15	91
	39/2	00	02	98
	41	00	00	42
	40/3	00	01	10
	79/1	00	00	11
	66	00	09	18
	68/1	00	10	65

1	2	3	4	5
	68/३पी१	००	०७	४१
	77/1	००	०३	९५
	65/४	००	०३	१०
	६०	००	०२	९२
अनिंगानाहल्ल	३०/P11	००	१४	४९
	२४	००	११	६५
अक्षंत्रगोल्लाहल्ल	१०/पी२,ए,बी	००	०३	२३
	१०/पी४	००	००	७१
मुगालाबेले	६८/२	००	०२	१०
	६४/२	००	०७	५९
	५९	००	०५	९५
	८/१,२,३,४	००	०३	८७
	९/१	००	०४	१४
	५/२	००	०१	७१
	१७	००	००	९२
	१३४/२	००	०१	६४
	१५६/१	००	०३	०३
माधमंगला	१७/१ए,१बी,२	००	०२	८७
	१८	००	०१	४२
	१५/१	००	००	२५
	१४	००	०९	१५

1	2	3	4	5
सूलकुंटे	4	00	03	50
	97	00	02	85
	14/2	00	02	57
	16	00	00	66
	15	00	02	07
	103	00	01	04

[फा सं. आर.-25011/8/2007-ओ.आर.-1]

बो. कं. दत्ता, अवर सचिव

New Delhi, the 21st May, 2010

s.o. 1393.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by the Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri R. Allappa, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, House No – 142/2, 2nd cross, Muni Reddy Layout, Horamavu Main Road, Doddabansavadi, Bengaluru – 560043.(Karnataka)

SCHEDULE

Taluka : Bangarpet		District : Kolar	State : Karnataka		
Name of the Village		Survey No/Sub-Division No	Area		
			Hectare	Are	Sq. Mtr.
1	2	3	4	5	
Jayamangala	130/P2,3,10,19	00	18	00	
	3/3	00	10	17	
	146/P1,2	00	09	36	
	144/2	00	07	16	
	153/1	00	06	55	
	147/2	00	04	37	
	148/2	00	00	75	
	147/4	00	02	13	
	11/2	00	03	02	
	11/1	00	06	80	
	148/5	00	00	36	
	1/2	00	06	25	
	138	00	04	86	
	142/2	00	07	68	
	139	00	06	21	
	9/4	00	06	56	
Vadandahalli	56	00	12	28	
	52	00	07	63	

1	2	3	4	5
	54	00	07	62
	46	00	17	10
	69	00	12	69
	67	00	02	12
	65	00	02	16
	124	00	01	80
	58	00	00	90
Kamandahalli	74	00	07	56
	76	00	05	10
	58/2P1,2P2	00	04	82
	40/1	00	03	08
	42/P3	00	04	60
	55/3P4	00	00	83
	69	00	05	30
Kanganalluru	62	00	23	40
Mavahalli	129	00	12	05
	63	00	02	66
	57/27,3,4,5,6,10,14,20	00	08	80
	48/1	00	05	65
	57/19	00	06	30
	58/1	00	09	00

1	2	3	4	5
	19	00	00	26
	18/3B	00	06	21
	62/3	00	06	48
Nayakarahalli	67/P	00	14	34
	51/1, 2	00	04	15
	62	00	00	51
	50	00	09	12
	78/4	00	03	65
	58	00	03	96
	25/1	00	01	33
	64	00	04	03
	68/2	00	02	40
	79/3	00	02	63
	63/1	00	04	14
	25/3	00	15	91
	39/2	00	02	98
	41	00	00	42
	40/3	00	01	10
	79/1	00	00	11
	66	00	09	18
	68/1	00	10	65

1	2	3	4	5
	68/3P1	00	07	41
	77/1	00	03	95
	65/4	00	03	10
	60	00	02	92
Aniganahalli	30/P11	00	14	49
	24	00	11	65
Akshanthragollahalli	10/P2,A,B	00	03	23
	10/P4	00	00	71
Mugalabele	68/2	00	02	10
	64/2	00	07	59
	59	00	05	95
	8/1,2,3,4	00	03	87
	9/1	00	04	14
	5/2	00	01	71
	17	00	00	92
	134/2	00	01	64
	156/1	00	03	03
Madamangala	17/1A,1B,2	00	02	87
	18	00	01	42
	15/1	00	00	25
	14	00	09	15

1	2	3	4	5
Sulikunte	4	00	03	50
	97	00	02	85
	14/2	00	02	57
	16	00	00	66
	15	00	02	07
	103	00	01	04

[F. No. R-25011/8/2007-O.R.-I]

B. K. DATTA, Under Secy.

नई दिल्ली, 21 मई, 2010

का. आ. 1394.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तमिलनाडु राज्य में चेनै से कर्नाटक राज्य में बैंगलुरु तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज बाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर. अल्लप्प, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन डीवीजन, नं 142/2, 2 क्रास, मुनिरेडी लेओट, होरमाव मेन रोड, डोड बानसवाडी, बैंगलुरु-560043 कर्नाटक को लिखित रूप में भेज सकेगा ।

अनुसूची

तालुका : होसकोटे	जिला : बेगलुरु रुरल	राज्य : कर्नाटक		
		क्षेत्रफल		
		हेक्टर	एयर	वर्ग मिटर
1	2	3	4	5
बमनबांडे	55/1	00	00	19
	38/3	00	02	15
	56/6	00	09	37
	55/3	00	09	37
काजीहोसा हल्लि	16/2सी	00	06	39
	14	00	39	88
	16/2ए	00	00	53
	16/2बी	00	02	13
बनहल्लि	36/3	00	00	64
	31/1	00	02	00
	30/2	00	03	50
	31/3	00	00	30
टिंडलु	60	00	03	68
देवरगोल्लहल्ली	23	00	08	00

[फा सं. आर.-25011/8/2007-ओ.आर.-1]

श्री. के. दत्ता, अवर सचिव

New Delhi, the 21st May, 2010

S. O. 1394.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Chennai in the State of Tamilnadu to Bangalore in the State of Karnataka, a pipeline should be laid by the Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri R. Allappa, Competent Authority, Indian Oil Corporation Limited, Pipelines Division, House No – 142/2, 2nd cross, Muni Reddy Layout, Horamavu Main Road, Doddabansavadi, Bengaluru – 560043.(Karnataka)

SCHEDULE

Taluka : Hosakote	District : Bangalore Rural	State : Karnataka		
		Area		
Name of the Village	Survey No/Sub-Division No.	Hectare	Are	Sq. Mtr.
1	2	3	4	5
Bommanabonde	55/1	00	00	19
	38/3	00	02	15
	56/6	00	09	37
	55/3	00	09	37
Kajihosahalli	16/2C	00	06	39
	14	00	39	88
	16/2A	00	00	53
	16/2B	00	02	13
Banahalli	36/3	00	00	64
	31/1	00	02	00
	30/2	00	03	50
	31/3	00	00	30
Thindlu	60	00	03	68
Devaragollahalli	23	00	08	00

श्रम एवं रोज़गार मंत्रालय

नई दिल्ली, 8 अप्रैल, 2010

का. आ. 1395.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में, केन्द्रीय सरकार एवं ई.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 55/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-4-2010 को प्राप्त हुआ था।

[सं. एल-22012/331/2004-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 8th April, 2010

S.O. 1395.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol now as shown in the Annexure, in the Industrial Dispute between the management of M/s Eastern Coalfields Limited, and their workmen, which was received by the Central Government on 8-4-2010.

[No. L-22012/331/2004-IR(CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**IN THE COURT OF CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

Reference No. 55/ITC/2005

Management of Nimcha Colliery of E.C.L.

Vrs.

General Secretary, Koyla Mazdoor Congress

SETTLEMENT IN LOK ADALAT

Held on 11th December, 2009 at Kajora Guest House

AWARD

On amicable settlement by both parties the dispute is resolved in the Lok Adalat. The Terms of agreement contained in form 'H' to form part of the Award.

MANORANJAN PATTNAIK, Presiding Officer

FORM 'H'

**(See Rule 58) under Industrial Dispute
Central Rules —1957**

Memorandum of settlement arrived at between Sri Dinesh Bhuiya, Ex. U.G. Loader U.M. No. 354483 of Nimcha ® Colliery.

**Representative of
Management :**

- | | |
|---|---|
| <p>1. Sri S. Saran,
Chief General Manager,
Satgram Area</p> | <p>1. Sri Dinesh Bhuiya
Ex. UG Loader
Nimcha®Colliery</p> |
| <p>2. Sri J.S. Sayare,
Dy. C.P.M. Satgram Area</p> | |
| <p>3. Sri B. Bhowmick,
Dy PM .Nimcha ® Colliery</p> | |

Short recital of the case

3. Sri Dinesh Bhuiya. Ex. UG Loader, U.M. No. 354483 of Nimcha ® Colliery was charge sheeted for abetting from duty from 24-4-2003. A departmental enquiry was conducted, wherein the charges were proved and accordingly Sri Bhuiya was terminated from his services on dismissal vide letter No. Agt/NIM/PD/46/2634 dated 1-12-2003.

4. Sri Dinesh Bhuiya Ex. UG Loader, U.M. No. 354483 of Nimcha ® Colliery had submitted mercy application for his re-instatement in service and the Competent Authority. ECL has been pleased to approve re-instatement of his service on revocation of his aforesaid order of dismissal without payment of any back wages subject to ascertaining his medical fitness as communicated by Dy. C.P.M. (L&IR), ECL, HQ vide letter Ref. No. ECL/CMD/C-6 (D)/L&IR/09/DA/923 dated 24-8-09.

TERMS AND CONDITION OF SETTLEMENT

1. Agreed that Sri Dinesh Bhuiya, Ex. UG Loader, U.M. No. 354483 of Nimcha ® Colliery will be re-instated in service in his previous designation as he has been declared FIT FOR JOB by the competent medical board, Satgram Area and to be posted in any of the colliery under Satgram Area where there is requirement.

2. Agreed that this settlement resolves the dispute fully and finally. Neither the workman concerned nor his Union shall raise any dispute in any forum/court of law after this settlement in this regard. Even he has assured for unconditional withdrawal of his CGIT case No. 55 of 2005 pending before the CGIT Asansol before his reinstatement. It is also agreed that the person concerned will also submit a "NO DISPUTE" certificate in this regard to the management. Process for his Re-instatement in service will be made accordingly.

3. Colliery Authority have confirmed that Sri Dinesh Bhuiya has not yet drawn his gratuity and CMPF accumulations.

4. Agreed that the Ex-employees concerned will not be entitled for any back wages for the period of his idleness and the period of his absence/idleness shall be treated as Dies-NON.

5. Agreed that the EX-employees will be allowed the benefit of continuity of service for the period of his idleness for the purpose of computation of his final gratuity payment only.

6. Agreed that the ex-employee on such reinstatement in service shall be on probation for a minimum period of ONE (1) year and the same will be confirmed only on receipt of satisfactory performance certification on expiry of probation period by CGM/GM of the area.

7. Agreed that the instant settlement has been arrived with the free consent of the ex-workman concerned as he has found the settlement to be reasonable, just and free from any kind of influence.

8. Agreed that a copy of this Memorandum of settlement shall be sent to CGIT, Asansol and the Regional Labour Commissioner (C), Asansol, for registration as per I.D. Act, 1947.

9. The workman will submit his undertaking that in future he will not commit the misconduct of unauthorised and/or habitual absence from duty.

The agreement is signed by both the parties on 28-10-09.

Management Representatives :	Ex. Workman Concerned :
1. Sd/- Chief General Manager Satgram Area	(LTI of Dinesh Bhuiya) Ex. UG Loader, Nimcha ® Colliery
2. Sd/- (J.S. Sayare) Dy. Chief Personnel Manager Satgram Area	
3. Sd/- (B. Bhowmick) Dy. Personnel Manager Nimcha ® Colliery	

WITNESSES

Name	Desig- nation	U.M.No.	Area/ Colliery	Signature
1. Sri Hira Dusadh,	UG. Loader	138005	Nimcha ® Colliery/ Sat. Area	Sd/-
2. Sri Seonandan Bhuiya,	UG. Loader	118043	-do-	Sd/-

नई दिल्ली, 28 अप्रैल, 2010

का. आ. 1396.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स इंडियन एयरलाइन्स लिमिटेड के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, सी.जी.आई.टी.

अरनाकुलम, कोचीन के पंचाट (संदर्भ संख्या 142/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-4-2010 को प्राप्त हुआ था।

[सं. एल-11012/51/2003-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th April, 2010

S.O. 1396.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 142/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam Cochin now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s Indian Airlines Ltd., and their workmen, which received by the Central Government on 28-4-2010.

[No. L-11012/51/2003-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present :

Shri NORBERT, B.A., LL.B., Presiding Officer

(Tuesday the 13th day of April, 2010/23rd Chythram,
1932)

I.D. 142/2006

(I.D. 5/2004 of Industrial Tribunal, Kollam)

Union : The Secretary,
Thiruvananthapuram International and
Domestic Airport Contract Workers
Union (HO),
Kaithamukku, Trivandrum-695 024,
Kerala State

By Adv. Sri. Sudhir G.K.

Management : 1. The Managing Director,
Indian Airlines Ltd.,
Airlines House, New Delhi

2. The Regional Director,
Indian Airlines Ltd.,
Airlines House, Chennai

By Advs. M/s. Menon and Pai.

This case coming up for hearing on 29-3-2010, this
Tribunal-cum-Labour Court on 13-4-2010 passed the
following.

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

"Whether the demand of Thiruvananthapuram International and Domestic Airport Contract Workers' Union, Kaithamukku, Trivandrum 695 004 for regularisation of Shri S. Mohanachandran as Pump Operator-Plumber in the services of M/s. Indian Airlines, Trivandrum w.e.f. 15-5-1987 is justified ? If so, to what relief is Shri. Mohanachandran entitled ? and; whether the action of the management to disengage him w.e.f. 31-7-2003 is legal and valid ? If not, what orders are required to be passed in this regard ?"

2. The facts of the case in brief are as follows :

Sri. Mohanachandran through contract workers' union has questioned the action of the management in disengaging him and has demanded regularisation in service. The management is Indian Airlines Limited.

3. According to the union Shri. S. Mohanachandran was appointed as plumber-cum-pump operator on 15-5-1987. At the time of appointment he was directed by officers of the management to submit application, contents of which were dictated to him by the officers. Slowly the management began to designate him as contractor, though in fact he was an employee of the management. He was directed and supervised in the work by Clerk of works (Civil Engineer) who was the head of that section. Five months after his appointment he received a letter from the management describing him as contractor and incorporating a number of terms of contract. The so-called contract is sham and was in force only for a period of one year. Thereafter he was asked to renew the contract every year. Sometimes the management obtained signed blank papers from him. In 1992 he was asked to submit tender for plumbing contract. For fear of losing job he submitted tender. After expiry of the period of contract for two years from 1992 there was no renewal. In 2001 again he was asked to sign a new agreement. The purpose of obtaining agreements was to deny benefits. There is employer-employee relationship between the worker and the management. The nature of work that the workman was doing is perennial and continuous. When the worker demanded regularisation and raised a dispute and while conciliation was going on he was prevented from attending to his duties from 31-7-2003 onwards. Thereafter casual hands are employed for day to day plumbing and pump operating works. The so-called contract is to be declared sham and a camouflage arrangement and the workman is to be regularised in service from the date of initial appointment.

4. According to the management the union is not competent to raise the dispute. Sri. S. Mohanachandran

was only a contractor. There is no relationship of master and servant between him and the management. He had applied for contract and the contract was awarded. On its expiry extension of contract was sought and was allowed from time to time. The management being a public sector undertaking it has well defined recruitment rules for appointments. There is no post of Pump Operator-cum-Plumber in the management company. The work is not perennial in nature. No permanent workers are required in the work. There was no supervision and control over the worker. Since bills submitted by the worker had to be certified by officials of the management they had to satisfy themselves regarding proper completion of the work entrusted and it does not amount to supervision of the work. The worker is not entitled for any relief.

5. In the light of the above contentions the following points arise for consideration.

- (1) Is the contract sham ?
- (2) Is the claimant a workman within the definition of S. 2(s) of I.D. Act ?
- (3) Is the termination of service legal and proper ?
- (4) Is the workman entitled for reinstatement ?
- (5) Is he entitled for regularisation ?

The evidence consists of the oral testimony of WW1 and WW2 and the documentary evidence of Exts. W1 to 69(a) on the side of the union and MW1 and Exts. M1 to M-16 on the side of the management and Court Exts. X-1 to X-12.

6. Point No. 1 : It is an admitted fact that Sri. S. Mohanachandran was engaged for operation and maintenance of pump and water supply installations at the Indian Airlines premises at Trivandrum Airport from 15-5-1987 to 31-7-2003. The dispute is whether he is an employee or a contractor. The pleadings in the claim statement is to the effect that though he was appointed as an employee of the management, the latter began to designate him as contractor and a paper arrangement was made by the management to make the appointment a contract. This contract was renewed from time to time and the worker was compelled to apply for renewal. In course of time he was asked to submit tenders for awarding contract which he obliged for fear of losing job. The work of the claimant is perennial and continuous in nature. He was controlled and supervised by the officers of the management. He was given consolidated salary of Rs. 1300 per month initially and thereafter it was increased. In para 20 of the claim statement it is averred that the sham and camouflage arrangement is to be declared as void and illegal and consequently the management may be directed to regularise him in service from date of initial employment with all statutory benefits. There is also a prayer to treat the disengagement of the worker as illegal and reinstate

him. Thus going by the pleadings it is clear that there is some kind of contract arrangement between the parties for the purpose of carrying out the work of maintenance and operation of pump and water supply installations. It is nowhere pleaded in the claim statement that he has been working continuously for more than 240 days in a calendar year and he is entitled to notice and retrenchment compensation under S.25-F of I.D. Act. Therefore the pertinent aspect to be considered is, whether the so-called contract is sham or genuine.

7. Though the learned counsel for the management has at the very outset submitted that since Sri.Mohanachandran is a contractor he is not a workman within the definition of S.2(s) of I.D. Act and the dispute is not maintainable, the issue is answered by the Hon'ble High Court in WP(C) 8192 of 2004. The order of reference was challenged by the management before the High Court on the ground that the claimant being a contractor and not a workman within the definition of S.2(s) of ID Act, the reference is bad in law. The Hon'ble High Court held that it is open to the tribunal to go into the question whether the worker is a contractor or not, and the tribunal has the jurisdiction to entertain such a dispute. The O.P. was dismissed accordingly. In view of this observation the contention of the management is no more sustainable.

8. However the learned counsel for the management argued that the worker being a contractor cum sole contract labourer it is not open to him to challenge the contract. It is seen from the judgment in WP(C) 8192 of 2004 that the same union had applied for abolition of contract labour and the matter was pending consideration of the Central Advisory Contract Labour Board at the time of judgement on 7-10-2005. The union proceeded on the premise that the worker was treated by the management as a contractor who had applied and obtained award of contract as per the provisions of Contract Labour (Regulation and Abolition) Act 1970, in brief CLRA Act. The pleadings in the claim statement is couched accordingly. The worker is claiming regularisation in service for the reason that the so-called contract is sham in nature and hence the worker is an employee of the management.

9. It is relevant to note that the objects and reasons of CLRA Act is to abolish contract labour system wherever possible and in cases where this system cannot be abolished altogether to regulate the working conditions of contract labour so as to ensure payment of wages and provision for essential amenities. In Gammon India Ltd. V. Union of India AIR 1974 SC 960 [1974(1) SCC 596] in para 14 it is observed by the 5-Judge Constitution Bench of Hon'ble Supreme Court as follows :

"The Act was passed to prevent the exploitation of contract labour and also to introduce better conditions of work. The Act provides for regulation and abolition of contract labour. The underlying

policy of the Act is to abolish contract labour, wherever possible and practicable, and where it cannot be abolished altogether, the policy of the Act is that the working conditions of the contract labour should be so regulated as to ensure payment of wages and provision of essential amenities Section 10 of the Act deals with abolition while the rest of the Act deals mainly with regulation".

The provisions of the Act is meant mainly for the welfare of the contract labour. Nowhere in the Act any right or protection is given to the contractor. In Steel Authority of India Ltd. and Ors. v. National Union Waterfront Workers and Ors. 2001-II-LLJ 1087 (2001) 7 SCC (1) 5-Judge Constitution Bench of Supreme Court has held in para 119 (5) that :

"..... If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularise the services of the contract labour in the concerned establishment".

10. In the instant case the contractor himself is alleging that his contract is not genuine, but a ruse to deny benefits due to an employee. The pertinent question therefore is, can one of the parties to the contract disown the contract and question its genuineness ? A contract labourer may claim that the contract is sham and it is an arrangement between the contractor and the management to deny benefits to him. But here is a person who is contractor cum sole contract labourer alleging that the contract is not genuine. Ext. M1 is an application for award of contract for maintenance of pump and water supply as well as sanitary installations of Indian Airlines Buildings at Airport, Trivandrum. Ext.M2 is the award of contract. The terms of contract are specified in the document. Ext. M3 is a request for renewal of contract submitted by the worker. Ext. M4 is another request for renewal of contract. While public tender was invited in 1991 by the management tender notice was issued to 8 licensed contractors. Ext. M5 document reveals it. The name of the worker as well as another contractor was included later as per the request of the worker himself. By Ext. M6 letter the worker had requested the management that he was not issued with a tender notice and he was not aware of the tender notification. As he was doing the work all along since 1987 he may be afforded a chance to submit tender. Ext. M7 is a similar request to allow him to participate in the tender and to re-tender the work of maintenance and operation of water pumps and sanitary installations. It is thereafter that the name of worker was included in the list of contractors (Ext. M5) from whom tender had to be called. Ext. M8 is another application for renewal of contract of the worker. By Ext. M-10 the worker was awarded contract for one year w.e.f. 1-1-1993. By Ext. M-11 the worker

requested the management to empanel him as a contractor. Ext. M-13 dated 7-12-1996 is a request of worker for extension of contract w.e.f. 1-1-1997. Ext. M-14 dated 12-8-1997 is request of worker for increase in the remuneration. It is written in the letter pad of worker who is described as government contractor. Exts. M-15(a) and (b) bills were submitted by the worker to the management describing him as contractor. In Exts. M-15 (f) and (g) bills also the worker is designated as contractor. Thus from 1987 onwards all along the worker was awarded contract. But his case is that he had not voluntarily applied for award of contract or submitted tenders. It was done under compulsion and even threat of losing his job as plumber.

11. The claimant admits that previously he was working as a plumber in a private firm by name Madras Engineering Corporation and that firm was attending the plumbing work of Indian Airlines. According to him thus he came to know that there was vacancy of a plumber in the Indian Airlines Office in the Airport, Trivandrum, and applied for job of plumber. Ex. M1 application was admitted by him while he was in the box (WW2). But according to him the draft of Ext. M1 was prepared by the Clerk of Works (COW), which was got typed by the worker and submitted to the management. He has passed SSLC and certificate course of plumbing (page 18 of WW2). It is to be noted that he had sufficient education to understand the contents of Ext. M1 application. His request in Ext. M1 was to award the contract in his favour for a consolidated amount of Rs. 1300 per month. Ext. M1 is dated 15-5-1987. Admittedly he was engaged in Indian Airlines for operation and maintenance of pump and water supply and sanitary installations from 15-5-1987. Ext. M2 contract was awarded on 23-10-1987 for a period of one year w.e.f. 15-5-1987 (Clause 1 of Ext. M2). Exts. M1 and M2 show that he was engaged on contract basis apparently. He was free either to accept or refuse the offer of the management to engage him as a contractor. There was no question of compulsion or even threat at that time as he was yet to join the service of the management. Admittedly the remuneration asked for was a consolidated sum of Rs. 1300 per month and no other benefits. Thus the worker was quite aware what was his status in the service of the management. He went on renewing the contract year after year and this continued upto 2003. When his contract was not further renewed he turned round and questioned the genuineness of the contract he entered into so long with the management. A party to the contract himself cannot challenge the same except on the ground of fraud. The case of the worker that he was compelled to sign blank papers and some typed papers for the sake of job is not convincing in the above circumstances. He was already working for a firm by name M/s. Madras Engineering Corporation till he joined the service of the management on 15-5-1987. He could have opted to remain in the same firm and there was no reason for him to be a prey to the pressure of the management. The

management had no reason for exerting pressure on the worker to take up the contract or accept the job on contract basis. Thus the story put forward by the worker can convince none. In short it is not open to the worker, being the contractor-cum-sole labourer, to question the contract as sham.

12. However the learned counsel for the union on the strength of two decisions of Hon'ble Supreme Court and High Court of Kerala argued that the worker who had offered his personal service to the management cannot be called a contractor and he is in fact an employee of the management. In D.C. Works Ltd. Vs. State of Saurashtra AIR 1957 S.C. 264 it is held in para-26 :

“.....what determines whether a person is a workman or an independent contractor is whether he has agreed to work personally or not. If he has, then he is a workman.....”

In Mathew V. Industrial Tribunal 1959 KLT 611 following the decision in D.C. Works case, the same observation was made.

It is to be noted that these two decisions were rendered prior to coming into force of CLRA Act, 1970. Therefore there was no occasion for the courts in the above two cases to consider the definition of 'contractor' and 'workman' under Section 2(1) (C) and (i) or other provisions of the Act. That part in D.C. Works case there was no written agreement but only on oral agreement regarding the work undertaken. These workers were seasonal workers working in salt lands. The workers with their families used to camp near the place of work until season is over. Considering the nature of the evidence in that case it was observed that the workers were workmen within the definition of I.D. Act and they were not contractors. In the 2nd case (Mathew V. Industrial Tribunal) workers were working in a jewellery as goldsmiths. The employer called them piece rated workers on contract. There were no written contracts between the parties. Considering the nature of the work, the supervision and control etc. It was held that the goldsmiths were workmen within the definition of I.D. Act and they were not contractors. Whereas in the instant case there are a number of written contracts. There is no scope for going behind the written contract as the worker himself is party to the contract. Therefore the decisions cited by the learned counsel for the union do not help him.

13. The rest of the contentions of the union regarding the sham nature of contract and the status of the worker needs no consideration in view of the finding that the contractor himself cannot challenge the contract. But assuming that he is not a contractor but only a contract labour, the question is, has he succeeded in establishing the employer-employee relationship.

14. It was argued by the learned counsel for the union that there is no valid contract even going by the case of the management. Extension of contract from time to time is not a valid contract. Ext. M2 is a contract of the period from 15-05-1987 to 14-05-1988. Thereafter the contract was renewed from time to time as per Exts. M3 and M4. In 1991 public tender was called for and contract was awarded in December 1992. Meanwhile the previous contract of the worker was extended. Ext. M-10 dated 11-12-1992 is the contract awarded in pursuance to tender called for. Even thereafter there was extension of contract without calling for fresh tender. MW1 the Chief Manager (personnel) of the management has stated that for small work only hand quotations were taken and for other work tenders were invited (page 5 cross-examination of MW1). He admits that for the first time it was in 1991 that tender was invited and since then no hand quotations were accepted (pages 6 and 8). It is held in Sterling Computers Ltd. V. M/s. M & N Publications Ltd. AIR 1996 SC 51 that extension of contract without calling for fresh tender is illegal and hence the contract is void. In that case publication of telephone directories of Mahanagar Telephone Nigam Limited, a Government of India undertaking was given on contract to United Indian Periodicals Pvt. Ltd. (UIP) for a period of 5 years from 1987 to 1991. But the contractor failed to publish the directories. The contract involved crores of rupees. The management decided to extend the period of contract in favour of UIP. This was challenged before the Hon'ble Supreme Court and it was held that fresh contract for additional years granted in the grab of extension of original agreement without inviting tenders is void. It is relevant to note that in the decided case the question of sham contract did not arise for consideration. Even if the contract is valid it may be a sham contract. The Hon'ble Supreme Court observed that the contract was invalid because the procedure for inviting tenders was not followed by a public sector undertaking. It means that there was no contract at all. But in the instant case the contention of the union is that there is a contract, but it is sham. The union has no case that there is no contract at all and because of that there is employer-employee relationship. The worker wants the management to treat him as an employee of the management because the contract is sham. Hence the decision in Sterling Computers case cited by the learned counsel for the union is not applicable to the case on hand.

In Brijbhushan Yadav V. Union of India (2007) 7 SC 794 it is held by the Hon'ble Supreme Court that if there is no valid contract after a period but the workers continued to work they are the employees of principal employer. (paras 9 & 12).

In that case the workers had claimed continuous service of more than 240 days in a calendar year prior to the termination and contended that they were not given notice and retrenchment compensation in accordance with

S. 25-F of I.D. Act. But in the present case there is neither pleading regarding continuous service of more than 240 days in a calendar year nor about non compliance with S. 25-F of I.D. Act. The reason for the absence of such pleadings in the claim statement is because the case is built up on the premise that there is a contract and the contract is sham. Hence Brijbhushan's case is also not applicable to the facts of this case.

15. In case of contract which is said to be sham the union has to establish that there is relationship between the management and the worker. The important tests to know the master servant relationship between the parties is laid down in Steel Authority of India Ltd. V. National Union Water Front Workers (2001) 7 SCC 1 by 5-Judge Constitution Bench of Supreme Court. Relying on the decision in Steel Authority case a later 3-Judge Bench of Hon'ble Supreme Court in Ram Singh V. Union Territory, Chandigarh (2004) 1 SCC 126 held in paras 15 and 16 as follows :—

“15. In determining the relationship of employer and employee, no doubt, “control” is one of the important tests but is not to be taken as the sole test. In determining the relationship of employer and employee, all other relevant facts and circumstances are required to be considered including the terms and conditions of the contract. It is necessary to take a multiple pragmatic approach weighing up all the factors for and against an employment instead of going by the sole “test of control”. An integrated approach is needed. “Integration” test is one of the relevant tests. It is applied by examining whether the person was fully integrated into the employer’s concern or remained apart from and independent of it. The other factors which may be relevant are—who has the power to select and dismiss, to pay remuneration, deduct insurance contributions, organise the work, supply tools and materials and what are the “mutual obligations” between them. (See *Industrial Law*, 3rd Edn., By I. T. Smith and J. C. Wood, at pp. 8 to 10).

16. Normally, the relationship of employer and employee does not exist between an employer and a contractor and the servant of an independent contractor. Where, however, an employer retains or assumes control over the means and method by which the work of a contractor is to be done, it may be said that the relationship between employer and employee exists between him and the servants of such a contractor. In such a situation the mere fact of formal employment by an independent contractor will not relieve the master of liability where the servant is, in fact, in his employment. In that event, it may be held that an independent contractor is created or is operating as a subterfuge and the

employee will be regarded as the servant of the principal employer. Whether a particular relationship between employer and employee is genuine or a camouflage through the mode of a contractor, is essentially a question of fact to be determined on the basis of the features of the relationship, the written terms of employment, if any, and the actual nature of the employment. The actual nature of relationship concerning a particular employment being essentially a question of fact, it has to be raised and proved before an industrial adjudicator. Conclusions (5) and (6) of the Constitution Bench decision of this Court in Steel Authority of India are decisive for purposes of this case, which reads as under : (SCC p. 63 para 125)"

16. It is relevant to note that the union office bearer WW1 has stated nothing about the supervision and control of the worker by the management. WW2 the worker has stated (page 6 cross examination) that he was supervised by the Clerk of Works. He also says that (page 9) that for doing additional work than his normal duty, the clerk of Works used to give written instructions and those instructions are Exts. W6 to 17. However he does not say what actually was the direction or instruction given to do each kind of work. In other words he does not say whether the instructions included how the work should be done. To MW1 there was no question in the cross examination regarding supervision and control. Exts. W6 to 9 and 11 to 17 are written instructions given by COW to the worker to supervise the work of other labourers as well as to attend to private works of some officers. Even Ext. W-10 contains only general instructions to clean waste water tank and soak pit. The worker being the sole person attending pluming work, officials have to give direction to do certain work. Ext. W6 to 17 instructions were given by COW, Sri P. Thankamani. Worker is addressed in these documents as plumber. By merely addressing him as plumber, will not make him a direct employee of the management in view of written contracts and the correspondence between the parties as well as internal correspondence of the management, Exts. M1 to M-14. According to MW1—Exts. W6 to 10 are written on scribbling pads by COW, P. Thankamani, and the name seal appearing on the documents is not an official seal. The management has a case that COW, Sri P. Thankamani himself was an employee on contract. There was vigilance case against him. He was disengaged after the period of contract. MW1 has deposed so (page 26). MW1 has admitted (page 4) that there was vigilance enquiry against Thankamani and the worker had given evidence against Thankamani in the enquiry. Ext. M-16 judgment of the Hon'ble High Court reveals that P. Thankamani had filed a writ petition for a direction to reinstate and regularize him in service. The High Court had directed the management to consider the representation of Thankamani sympathetically taking note

of the long service and age factor of Thankamani. WW2 (page 14) admits that there was vigilance enquiry against Thankamani. There is a suggestion by the management to WW2 that Exts. W7 to 9, 11 and 12 were issued by Thankamani in order to help the worker (page 25). The above circumstances go to show that Sri P. Thankamani is not above board and the documents issued by him can be taken only with a pinch of salt.

17. The mode of payment to the worker was as per the bills submitted by him. Ext. M-15 series, X-5 and 6 are bills submitted by the worker. Exts. X-3, X-4 and X-7 to 12 are letters sent by station manager, Trivandrum to Sr. Manager (Civil Engineering) Chennai forwarding bills of worker. Exts. W48 to 54 are bills of materials purchased for plumbing and other works. It is endorsed in the bills that the items were verified by the worker. Thus the officer who certified the bills (COW) has endorsed that plumber had verified the items purchased. Out of them in respect of bills, Exts. W-48 to 52 the certifying officer is Thankamani. Admittedly the mode of payment was on submission of bills. If the worker was an employee of the management this is not the mode of payment. Even in the case of a casual employee the method of payment would not be on the basis of bills, but as per vouchers or concerned Register. But the worker had been submitting bills of different items of work done by him for getting payment. This is a strong indication of the contract work that he was doing. Ext. W-46 series are copies of attendance registers for the period September 1998 to 2001 July. The originals are not before the court. These attendance registers contain the name of worker alone. No doubt he has put his signature to show his attendance everyday without availing leave during the whole period. The management disputes the genuineness of Ext. W-46 series. MW1 has stated that Ext. 46 series are not Attendance Registers (page 20). To WW the management suggested that the Attendance Registers are concocted documents and they were created with the help of Sri Thankamani (pages 12 & 13). WW2 says that he does not know where are the originals of Ext. W-46 series. He also says that the management used to pay salary only on production of concerned page of Attendance Register (page 28). Admittedly the management used to make payment only on production of bills. If that be so I fail to understand the relevancy of Attendance Register for the purpose of getting payment. Therefore no much reliance can be placed on Ext. W-46 series.

18. Regarding the power of the management to take disciplinary action against the worker there is no evidence on the side of the union. WW2 (page 6) has admitted that no leave or other benefits were given to him by the management. No disciplinary action is taken so far against the worker. WW2 also does not say that the management has any power to take disciplinary action.

19. In the light of the above circumstances and evidence I hold that the worker is only a contractor-cum-sole worker. Since the contractor himself cannot challenge the contract he cannot contend for a moment that the contract is sham.

20. Point Nos. 2 to 4 : The claimant being a contractor, he cannot say that there is employer-employee relationship. It follows therefore that he cannot be a 'workman' within the definition of S. 2(s) of I.D. Act.

21. The union contends that the termination is illegal. But I have found that he is not a 'workman' u/s. 2(s) of I.D. Act, but only a contractor. Hence there is no retrenchment but only termination of contract. Therefore there is no illegality in the action of the management in disengaging him or terminating his contract.

22. The union has not pleaded in the claim statement that the worker had worked continuously for more than 240 days in a calendar year and he is entitled to notice and retrenchment compensation u/s. 25-F of I.D. Act. Assuming that there is pleading and violation of S. 25-F, he is now aged 58 years, which according to the management is the superannuation age of employees. Therefore the question of reinstatement also does not arise. Being a contractor the claimant cannot demand reinstatement.

23. Point No. 5 : Regarding the claim for regularisation the learned counsel for the management, relying on Secretary State of Karnataka v. Umadevi (2006) 4 SCC 1 and two subsequent decisions, one not following the principles laid down in Umadevi's case and the other following Umadevi's case, submitted that there is well defined procedure for public sector undertakings for recruitment of employees and no back-door entry is permissible. The decision in U.P. SEB v. Pooran Chandra Pandey (2007) II SCC 92 did not follow the ratio of the decision in Umadevi's case. Whereas in Official Liquidator v. Dayanand (2008) 10 SCC 1 the decision in Umadevi's case was relied on and held that the decision in Pooran Chandra Pandey which is not in tune with the decision of the constitution bench in Umadevi's case is to be treated only as obiter dictum and shall not be relied on by any court for bypassing the principles laid down in Umadevi's case. However it is to be noted that the decision in Umadevi's case has no relevance to the case on hand. No issue under CLRA Act came up for consideration in Umadevi's case before the Hon'ble Supreme Court and hence cannot have any application to the facts of this case. The decision that is applicable to the present case is Steel Authority of India Ltd., which is already referred. In view of the fact that the contract is not sham and the claimant is not a 'workman' within the definition of I.D. Act, the claim for regularisation is unsustainable.

In the result an award is passed finding that the demand of the union for regularisation of Sri S. Mohanachandran in the service of M/s. Indian Airlines,

Trivandrum is not legal and justified and the action of the management in disengaging him from service w.e.f. 31-07-2003 is legal and justified and he is not entitled for any relief.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 13th day of April, 2010.

P. L. NORBERT, Presiding Officer.

Appendix

Witnesses for the Union :

WW1	—	Sri Rajendra Das, Union Secretary.
WW2	—	Sri S. Mohanachandran, Claimant.

Witness for the Management :

MW1	—	B. V. Kumar, Chief Manager (P), Indian Airlines.
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Exhibits for the Union :

W1	—	Letter dated 29-05-1987 sent by Station Manager, Trivandrum to Manager, Personnel Services, Madras.
W2	—	Letter dated 04-07-1987 sent by Station Manager, Trivandrum to Manager, Personnel Services, Madras.
W3	—	Letter dated 29-08-1987 of Ex. Engineer to Manager, Per. Services, Madras.
W4	—	Letter dated 19-09-1987 of Finance Manager, Madras to Station Manager, I.A., Trivandrum.
W5	—	Letter dated 25-09-1987 of Station Manager, Trivandrum to Finance Manager, Madras.
W6	—	Work Order issued by Sri P. Thankamani, Clerk of Works (COW) to Sri S. Mohanachandran on 09-03-1999.
W7	—	Work Order issued by Sri P. Thankamani, Clerk of Works (COW) to Sri S. Mohanachandran on 13-03-1999.
W8	—	Work Order issued by Sri P. Thankamani, Clerk of Works (COW) to Sri S. Mohanachandran on 20-05-1999.
W9	—	Work Order issued by Sri P. Thankamani, Clerk of Works (COW) to Sri S. Mohanachandran on 21-05-1999.

W10	—	Work Order issued by Sri P. Thankamani, Clerk of Works (COW) to Sri S. Mohanachandran on 10-07-1999.	W24	—	Letter dated 02-03-2002 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.
W11	—	Work Order issued by Sri P. Thankamani, Clerk of Works (COW) to Sri S. Mohanachandran on 23-10-1999.	W25	—	Letter dated 01-07-2002 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.
W12	—	Work Order issued by Sri P. Thankamani, Clerk of Works (COW) to Sri S. Mohanachandran on 31-07-2000.	W26	—	Letter dated 04-04-2002 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.
W13	—	Envelop enclosing instructions to the claimant.	W27	—	Letter dated 02-09-2002 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.
W13(a)	—	Envelop enclosing instructions to the claimant.	W28	—	Letter dated 13-03-2000 of Sr. Manager, CE to COW, Civil Engg., IAL, Trivandrum.
W14	—	Work Report dated 26-06-2000.	W29	—	Letter of Dy. Manager (PE), Trivandrum dated 28-05-2002 to the Station Manager, Trivandrum.
W15	—	Receipt of Labourer Badusha dated 20-09-2000.	W30	—	Letter of Dy. Manager (PE), Trivandrum dated 14-06-2002 to Airport Manager.
W16	—	Work Report dated 07-06-2001.	W31	—	Standing instructions dated 06-07-2002 of India Airlines.
W17	—	Letter of Airport Manager to the Passport Officer.	W32	—	Application for Identity Card dated 20-10-1998.
W18	—	Letter dated 07-09-2001 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.	W33	—	Application for Identity Card dated 18-05-1999.
W19	—	Letter dated 03-10-2001 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.	W34	—	Application for Identity Card dated 18-11-1999.
W20	—	Letter dated 01-11-2001 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.	W35	—	Application for Identity Card dated 11-05-2001.
W21	—	Letter dated 01-12-2001 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.	W36	—	Application for Identity Card dated 09-11-2001.
W22	—	Letter dated 02-01-2002 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.	W37	—	Application for Identity Card dated 05-11-2002.
W23	—	Letter dated 01-02-2002 forwarding the bill of S. Mohanachandran to Manager (Civil Engg.), Chennai by the Station Master.	W38	—	Application for Identity Card dated 13-02-2003.
			W39	—	Photo Identity Card issued to the claimant.
			W40	—	Photo Identity Card issued to the claimant.
			W41	—	Photo Identity Card issued to the claimant.

W42	—	Photo Identity Card issued to the claimant.	W60	—	Petty Cash Voucher dated 19-03-2002.
W43	—	Photo Identity Card issued to the claimant.	W61	—	Payment voucher dated 02-05-2003 issued to S. Mohanachandran.
W44	—	Photo Identity Card issued to the claimant.	W62	—	Representation of S. Mohanachandran to the Minister dated 24-11-2003.
W45	—	Daily permit issued to S. Mohanachandran.	W63	—	Certificate of Registration of Trade Union dated 09-08-2003.
W46	—	Copy of Attendance Register of S. Mohanachandran for the period September 1998 to May, 1999.	W64	—	Judgment in W.P. (C) 8192/2004.
W46(a)	—	Copy of Attendance Register of S. Mohanachandran for the period June 1999 to February 2000.	W65	—	Minutes of meeting of Central Advisory Contract Labour Board held on 10-09-2004 at Trivandrum.
W46(b)	—	Copy of Attendance Register of S. Mohanachandran for the period march 2000 to September 2000.	W66	—	Application of S. Mohanachandran for award contract.
W46(c)	—	Copy of Attendance Register of S. Mohanachandran for the month of July 2001.	W67	—	Judgment in O.P. 10336/2001.
W47	—	Two Photographs.	W68	—	Identity Card dated 31-10-2003.
W48	—	Bill dated 26-08-2000 regarding purchase of materials.	W69	—	Application dated 18-11-2009 of the claimant to ALC (Central) under RTI Act.
W49	—	Bill dated 29-02-2000 regarding purchase of materials.	W69(a)	—	Information furnishd as required in Ext. W-69 dated 14-12-2001.
W50	—	Bill dated 05-06-2001 regarding purchase of materials.	Exhibits for the Management :		
W51	—	Bill dated 25-06-2002 regarding purchase of materials.	M1	—	Application of claimant dated 15-05-1987 requesting for award of contract.
W52	—	Bill dated 06-07-2002 regarding purchase of materials.	M2	—	The order awarding contract dated 23-10-1987.
W53	—	Bill dated 24-07-2003 regarding purchase of materials.	M3	—	Request of S. Mohanachandran for extension of the period of contract dated 05-05-1988.
W54	—	Bill dated 17-06-2003 regarding purchase of materials.	M4	—	Request of S. Mohanachandran for extension of the period of contract dated 11-04-1989.
W55	—	Bill dated 01-07-2001 regarding remuneration for the work, submitted by S. Mohanachandran.	M5	—	Letter of Ex. Engr. to Station Manager dated 10-05-1999 requesting to distribute tender documents to the contractors in the list enclosed.
W56	—	Bill dated 01-06-2001 regarding remuneration for the work, submitted by S. Mohanachandran.	M6	—	Request of Mohanachandran to Ex. Engr. dated 13-01-1992 for providing him a chance to submit tender.
W57	—	Bill dated 03-05-1999 regarding remuneration for the work, submitted by S. Mohanachandran.	M7	—	Request of Mohanachandran to Ex. Engr. dated 27-01-1992 for providing him a chance to submit tender.
W58	—	Bill dated 01-06-1999 regarding remuneration for the work, submitted by S. Mohanachandran.			
W59	—	Petty Cash Voucher dated 03-07-2000.			

M8	—	Request of Mohanachandran dated 13-07-1992 for extension of period of contract.	M15(g)	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.
M9	—	Letter dated 23-07-1992 of Ex. Engr. to Station Manager, Trivandrum enclosing tender schedules for distributing them to contractors in the list.	M16	—	Judgment in O.P. 17075/1999.
M9(a)	—	Tender schedule.	COURT EXHIBITS:		
M10	—	Order of Ex. Engr. awarding contract to Mohanachandran dated 11-12-1992.	X1	—	Letter dated 19-09-1987 of Finance Deptt. to Station Manager, Tvm. regarding maintenance work of plumping and sanitary fittings.
M11	—	Letter of Mohanachandran dated 11-10-1995 to the Station Manager requesting for application form for the purpose of empanelment as contractor.	X2	—	Letter of Station Manager, Tvm. to Finance Manager, Madras dated 25-09-1987 seeking financial approval for recurring expenditure of contract work.
M12	—	Letter of Manager (Civil Engg.) dated 06-03-1996 addressed to Mohanachandran agreeing to enhance the contract amount.	X3	—	Letter of Station Manager, Tvm. to Manager (Civil Engg.), Chennai dated 07-09-2001 forwarding bill of Mohanachandran.
M13	—	Request of Mohanachandran dated 07-12-1996 for extension of the period of contract and for increase of the contract amount.	X4	—	Letter of Station Manager, Tvm. to Manager (Civil Engg.), Chennai dated 03-10-2001 forwarding bill of Mohanachandran.
M14	—	Letter of Mohanachandran dated 12-08-1997 requesting for enhancement of contract amount.	X5	—	Bill of Mohanachandran.
M15	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.	X6	—	Bill of Mohanachandran.
M15(a)	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.	X7	—	Letter of Station Manager, Tvm. dated 02-01-2002 forwarding bill of Mohanachandran to Sr. Manager (Civil Engg.), Chennai.
M15(b)	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.	X8	—	Letter of Station Manager, Tvm. dated 01-02-2002 forwarding bill of Mohanachandran to Sr. Manager (Civil Engg.), Chennai.
M15(c)	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.	X9	—	Letter of Station Manager, Tvm. dated 02-03-2002 forwarding bill of Mohanachandran to Sr. Manager (Civil Engg.), Chennai.
M15(d)	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.	X10	—	Letter of Station Manager, Tvm. dated 01-07-2002 forwarding bill of Mohanachandran to Sr. Manager (Civil Engg.), Chennai.
M15(e)	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.	X11	—	Letter of Station Manager, Tvm. dated 04-04-2002 forwarding bill of Mohanachandran to Sr. Manager (Civil Engg.), Chennai.
M15(f)	—	Bill submitted by Mohanachandran dated 02-8-1993 for the work done by him.	X12	—	Letter of Station Manager, Tvm. dated 02-09-2002 forwarding bill of Mohanachandran to Sr. Manager (Civil Engg.), Chennai.

नई दिल्ली, 28 अप्रैल, 2010

का. आ. 1397.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी. सी. सी. एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, सं. 1, धनबाद के पंचाट (संदर्भ संख्या 116/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-4-2010 को प्राप्त हुआ था।

[सं. एल-20012/477/93-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th April, 2010

S.O. 1397.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 116/95) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 28-4-2010.

[No. L-20012/477/93-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

PRESENT:

Shri Hari Mangal Singh, Presiding Officer

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 116 of 1995

PARTIES: Employers in relation to the management of Simlabahal Colliery of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : Mr. S. Sinha, Advocate

On behalf of the employers : Mr. D. K. Verma,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 5th April, 2010

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/477/93-IR (Coal-I), dated the 19th September, 1995.

SCHEDULE

“Whether the demand of the Union that Shri Jogesh Prasad Yadav and 63 others (as per list enclosed with the order of reference) members/share holders of the Friends Shramik Sahayog Samiti Ltd., be regularised as employee of the management of Simlabahal Colliery of M/s. BCCL is justified? And to what relief are these workmen entitled to?”

2. In the Written Statement filed on behalf of the concerned workman it has been stated that Shri Jogesh Prasad Yadav and 63 others all members/share holders of the Friends Shramik Sahayog Samiti Ltd. were doing miscellaneous underground time rated jobs, Tyndal jobs viz. carrying timbers Line Packing etc. from October, 1990 on labour rate basic. The concerned workmen were employed on permanent and perennial jobs on account of shortage of departmental labour. All the workmen completed more than 160 days attendance in underground.

3. It has been further stated by the workmen that the amount paid on labour-rate basic and for contractual jobs are divided amongst the members of the society but the amount per head was much less than the minimum wages for the jobs performed by the workmembers/share holders of the society. The jobs performed by the concerned workmen were of permanent and perennial nature of jobs. Moreover they have completed more than 190 days of attendance in underground. Thereafter, the concerned workmen became entitled to be regularised on departmental rolls on proper grade and rate of pay. The records of attendance of the workmen are lying with the management.

Under such circumstances, they have prayed to pass an Award holding regularisation of the concerned workmen as employees of Simlabahal Colliery of M/s. BCCL.

4. In the Written Statement filed by the management it has been stated therein that the reference itself is bad in law and thereby not maintainable for the reason that the appropriate Govt. has made the reference without application its mind and there is no dispute far or less any industrial dispute in the related matter between the parties.

5. Moreover, the reference has been made by the appropriate Govt. ignoring and overlooking the admitted fact that the concerned workmen were never under the employment of the Opp. Party at any point of time rather they were members of registered cooperative society namely Friends Shramik Sahayog Samiti and under whom they were working in miscellaneous job by formation of such society duly registered and admitted in the written statement of the workman. In the absence of any relationship of any nature whatsoever of employer and

employees between the parties hereto and the reference by the appropriate Govt. is bad in law as no industrial dispute under the provision of I.D. Act has arisen between the workmen and the employer in the related case. The concerned workmen thereby have admitted that the concerned workmen are Company operation workers being members of the Samiti hence claim for regularisation in BCCL is bad in law and thereby not tenable.

6. It has been stated by the management that the workmen were employees by the Secretary of the Cooperative Society who was entrusted with execution of misc. job by the employer company and the wages etc. to the concerned workmen were all along paid by the Secretary of the Cooperative Society. The Cooperative Society in respect of the work done by it used to get account payee cheque from the Employer Company from their own arrangement for payment to their Cooperative Workers to which the management had no say and therefore no relationship of employer and employee existed between the workmen and the employer. The Cooperative Society of which the workmen were members used to employ those workmen under the Cooperative Society and therefore the liability to regularise such workmen working under the Cooperative Society cannot be fastened upon the employer.

7. The concerned workmen used to work by forming the said Cooperative Society purely on temporary basis against the casual nature of job and therefore the regularisation of those employees in the employer company does not arise. The concerned workmen were never paid wages by the employer. It has been stated that the employer did not give any assurance of any nature at any point of time to the concerned Cooperative for regularisation of the concerned workmen. Moreover, the concerned workmen do not come under the definition of Section 2(K) of the I.D. Act, 1947. Apparently in the absence of any relationship between employees between the concerned workman or employer company to the humbly submission of the employer on the reference is not adjudicable. Accordingly it has been prayed on behalf of the employer to pass an Award rejecting the claim of the concerned workmen.

8. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paras of each other's Written Statement.

9. Workman side in order to substantiate their claim have examined Kanta Kumar, Shanta Ram and Mahbob Alam Ansari as WW-1, WW-2 and WW-3 respectively. Management on the other hand have examined Ramesh Kumar Sharma as MW-1. However, no documents have been produced by either of the side.

10. Main argument advanced on behalf of the concerned workmen is that they are working with

management from a very long time since 1990 by Friends Shramik Sahayog Samiti and performing misc. job underground, Tyndal jobs Line packing etc. and they have completed more than 190 days attendance in a calendar year in the underground and they were working in permanent and perennial nature of job. Management are not regularising them although other persons working in similar nature of jobs have been regularised by the management. In this respect management's representative argued that they are not their employees and there is no relationship of employer and employee between the concerned workmen and the management. It has also been argued that they have not worked under the supervision and control of the management and no wages have been paid by the management. No pay slip has been issued, no attendance have been marked and they have not performed 190 days work in the underground. Moreover, the jobs performed by the concerned workmen was never permanent had perennial in nature. Therefore, they are not entitled to be regularised in the service of the management. In this respect evidence of WW-1 very important. He has stated in his cross-examination at page-2 "I have got no paper to show that I have worked at Simlabahal Colliery. The other concerned workmen have also got no paper to show that they have worked at Simlabahal Colliery. I had not filled any application for job. After forming a Union we had made demand for the job. The work was allotted to us on the basis of oral request made by us. We have got no work order to show that any work was allotted to us. I do not know if there is 4 No. seam at that colliery or not. I have not done the job of mason. I do not know what are the materials required for preparation of plaster into underground mines. We used to start white washing from chanak (pit), but I cannot say the name of that place. I cannot say the name of the level to which we need to carry rails. I cannot say the level to which we were carrying timbers. I have got no paper to show that we were being issued cap lamps. I have got no paper to show that we were made payment of wages. At page-3 of the cross-examination WW-1 has stated that the workmen of BCCL gets appointment letter, identity card, pay slip and provident fund number. In this respect WW-2 Shanta Ram has stated in cross-examination "I was not granted any appointment letter or Identity Card as casual labour. Those workmen who work on permanent basis get any slip and identity card on that basis their payment is made from pay counter." At page-8 he has stated "I have got on slip to prove that we were getting any instruction regarding doing any work. I do not know if labour Cooperative Society is allotted work on the basis of work order. I have seen such work order but it is not with me. I do not remember what is the name of that wall and in what place it is being constructed. We used to white wash into underground mines on the walls of travelling routes. I do not know the situation of travelling routes and in which gallery or level or deep the same is

situated. I cannot say the place where we used to carry timbers. I got no paper to show that we were getting implements for work from the stores of the colliery. Among us there is no mason." WW-3 Mahboob Alam Ansari has stated in cross-examination "I have got no receipt to show that I was a member of said Labour Cooperative Society. None of us have got membership receipt to show that we were the members of said Cooperative Society." At page-2 of his cross-examination he has stated. "We have got no appointment letter nor any identity card. I have no paper or slip to show that we were allowed to work into underground mine. We have got no paper relating to our attendance nor we have got any paper to show that we were getting wages from BCCL. We have got no paper to show that we were deputed to work in a particular work. I know that BCCL is a Govt. Company and before appointment they issue advertisement then the workmen are appointed by BCCL. I have got no paper to show that there was any advertisement for appointment and we had applied for appointment."

11. The above statement of the concerned workmen shows that they have not applied for any job. No work order has been filed by them on which basis they used to work by forming Cooperative Society. Even they have not filled membership receipt of the said Cooperative Society which may show that they are members of the alleged Cooperative Society. They have got no paper to show that they have any attendance marked in BCCL for work and there is no paper to show that they were deputed to work in a particular work in BCCL. Even they do not know the working place where they worked. No payment receipt has been filed. Only request has been made for allotment of work but they have got no work order and no work order has been allotted to them. All these circumstances show that their demand for regularisation as employees of BCCL of Simlabahal Colliery is not justified. Accordingly the following Award is rendered :—

"The demand of the Union that Shri Jogesh Prasad Yadav and 63 others (as per list enclosed with the order of reference) members/ share holders of Friends Shramik Sahayog Samiti Ltd. be regularised as employees of the management of Simlabahal Colliery of M/s. BCCL is not justified. Consequently the concerned workmen are not entitled to get any relief."

H. M. SINGH, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2010

का. आ. 1398.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स टिस्को के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, सं. 1, धनबाद के पंचाट (संदर्भ संख्या 123/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-4-2010 को प्राप्त हुआ था।

[सं. एल-20012/3/88-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th April, 2010

S.O. 1398.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 123/90) of the Central Government Industrial Tribunal/Labour Court-2, No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. TISCO and their workman, which was received by the Central Government on 28-4-2010.

[No. L-20012/3/88-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the
Industrial Disputes Act, 1947

Reference No. 123 of 1990

PARTIES: Employers in relation to the management
of Jitpur Colliery of M/s. Indian Iron &
Steel Co. Ltd.

AND

Theri Workman

PRESENT: Shri H. N. Singh, Presiding Officer

APPEARANCES:

For the Employers : None

For the Workmen : None

State : Jharkhand Industry : Coal

Dated, the 8th April, 2010

AWARD

By Order No. L-20012 (3)/88-IR (Coal-I) dated 24-5-1990 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether S/Shri Tribhuvan Prasad and 54 others shown in the Annexure employes at Jitpur Colliery

of M/s. Indian Iron & Steel Co. Ltd. through M/s. Mining Associates, Asansol, are to be treated as the workmen of M/s. Indian Iron & Steel Co. Ltd. and if so whether demand for regularisation of these workmen in the services of M/s. IISCO is justified ? If so, to what relief are the workers entitled ?"

2. Written statement has been filed on behalf of the concerned workmen stating that they have been working in the underground of the mines in the permanent and prohibited category of jobs.

All the concerned workmen have been working as stone cutters and sometime also earth cutting, underground loader etc. All of them have put in more than 190 days attendance in each calender year. They have working under direct control and supervision of the management and all the implements for execution of the jobs are being supplied by the management. The concerned workmen also undergone vocational training at Vocational Training Centre of M/s. IISCO. As per law they are entitled wages and other benefits as per Wage Board Recommendation, NCWA-I, II, III and IV. The management with an ulterior motive to deprive the poor workmen of their legitimate wages and other benefits engaged them through an intermediary, M/s. Mining Association. Such engagement through intermediary is nothing but legal camouflage. The concerned workmen and their union demanded before the management several times for their regularisation and payment of wages as per Wage Board Recommendation and NCWAs, but without any effect. Seeing on other alternative the Union raised an industrial dispute before the A.L.C. (C), Dhanbad, which was ended in failure. Thereafter the Govt. of India, Ministry of Labour referred the following dispute for adjudication to this Tribunal. The concerned workmen were stopped from duty illegally, arbitrarily and in violation of the principles of natural justice. The concerned workmen have been working under prohibited category of job. It has been submitted that neither the so-called intermediary possessing any licence under the Provision of CIRA Act nor the management of M/s. IISCO Ltd. possessing any registration certificate. The action of the management in not regularising the concerned workmen and not treating them as their employees are illegal, arbitrary, unjustified and against the principle of natural justice.

It has been prayed that this Hon'ble Tribunal be pleased to answer the reference in favour of the workmen by awarding regularisation of the concerned workmen with retrospective effect with all arrear of wages.

3. The written statement has been filed by the management stating therein that the purpose of development of Jitpur colliery of the management, it become necessary to drive incline shafts from the Seam No. 14 to Seam No. 12 into the shaft. This was the highly technical and specialised work which could not be undertaken departmentally. The

problems faced by the management in getting the above work executed were explained to the Ministry of Labour and an exemption was obtained for getting the work in question executed by a Contractor. The management awarded the contract after invitation of tenders to M/s. Mining Associates, Asansol. When the sponsoring union raised the purported dispute in latter half of 1987, the number of persons employed by the Contractor in question was only 38. About 80% of the work has already been completed and the remaining part of the work is likely to be completed in about 6 months time. The work which was entrusted to the contractor concerned was purely temporary in nature. Once the job is executed, there will be no requirement for the men employed by the contractor. The management has also no obligation absolutely whatsoever to provide employment to the workers of the Contractor. It has also been stated that there is absolutely no master and servant relationship between the workers of the Contractor in this case and the management.

In view of the facts and circumstances stated above, the employers pray to pass an award in favour of the management holding that the persons concerned cannot be treated as the workmen of the Indian Iron & Steel Co. Ltd. and their regularisation in service is not justified.

4. Both parties have filed their respective rejoinders admitting and denying contents of the paragraphs of each other's written statement.

5. Notices were sent to the parties on 25-6-2009 fixing the date for hearing of argument on merit on 10-9-2009. But none appeared from either side, though written arguments have been filed by the parties.

6. Tribhuban Prasad has been examined on behalf of the workmen as WW-1. The R.I.C.'s file has been marked as Ext. W-1 as formal proof being dispensed with.

The management has produced MW-1, A. K. Chatterjee, who has proved Exts. M-1 to M-5, M-6 to M-6/3, M-6/4, M-7, M-8 to M-8/4, M-9 to M-9/22, M-10, M-11.

The management has also produced MW—R. K. Roy, who has proved documents Ext. M-8, M/n series, M/n/1 and M/n/2. He has also proved document Ext. W-1/1, W-1/2, W-8/a. Management has also produced MW-3, L. C. Bhattacharjee, who has proved M/o, M/p, M/q and M/q/1, M/r, M/l.

7. Main argument advanced on behalf of the concerned workmen that they have been working with the management continuously, as they should be regularised in the service of the management. In this respect management argued that they are not their workers and they cannot be regularised with them. They are workmen of Mining Associates and there is settlement by the management with the Associates. In this respect evidence

of the workman is very important. WW-1 in cross-examination stated "I do not have any idea as to how many workmen are working in Jitpur colliery. In Jitpur colliery production of coal is made. The colliery has its own workmen for raising of coal. I do not have any idea in incline shift in where no coal was produced. I do not have any knowledge if the regular employees of Jitpur colliery got letter of appointment, identity card and wage-slip. True it is that attendance of these workmen who are issued with cap lamps is recorded by the Attendance Clerk. It is not a fact that our work was being supervised by Shift Incharge of Mining Associates". He has also stated in cross-examination at page 5 that "True it is that workmen receiving training at Vocational Training Centre are issued with certificate of Vocational Training Centre." At page 6

he has stated Ram Lakan Rajwar has left the employment. The evidence of the workmen shows that they are the workers of Mining Associates and not of the management and they are working under contractor. So, they cannot be in any way regularised.

8. Accordingly, it is held that the demand for regularisation of Tribhuwan Prasad and 54 others shown in the Annexure employed at Jitpur Colliery of M/s. Indian Iron & Steel Co. Ltd. through M/s. Mining Associates, Asansol, in the services of M/s. IISCO is not justified and the concerned workmen are not entitled to any relief.

This is my Award.

H. M. SINGH, Presiding Officer

ANNEXURE

Sl. No.	Name of the worker	Father's name	Address
1.	Tribhuwan Prasad	Lalu Prasad	Village Tarchhawar, P.O. Bilthara Road, Distt. Balia (U.P.).
2.	Ganesh Yadav	Suraj Yadav	Village Bham, Post Office—Anti, Distt. Gaya (Bihar).
3.	Ram Khalawan Thakur	Chamari Thakur	Village Paharpur, P.O. Machurapur, Distt. Nauada (Bihar).
4.	Sheo Kumar Yadav	Barhu Yadav	Village Karmain, P.O. Angra, Distt. Gaya (Bihar).
5.	Shyamdeo Das	Shoobarat Das	Village Karmain, P.O. Angra, Distt. Gaya (Bihar).
6.	Bhim Ram	Kishori Ram	Village Dhol, P.O. Arthua Distt. Aurangabad (Bihar).
7.	Hari Sharma	Ram Charan Sharma	Village Banshipur, P.O. Pancham, Distt. Monghyre (Bihar).
8.	Sahadat Ali	Sadis Ansari	Village Bela Bijhara, P.O. Balhar, Distt. Bhagalpur.
9.	Rajesh Murmu	Babulal Murmu	Village Nayadih, P.O. Taratand, Distt. Giridih (Bihar).
10.	Ishwar Marandi	Sitma Marandi	Vill. Nayadih, Post Office Taratand, Distt. Giridih (Bihar).
11.	Shambhu Nath Jha	Bacha Jha	Village Ghaghardiha, P.O. Ghaghardiha, Distt. Madhubani (Bihar).
12.	Shiyaram Prasad	Dhanraj Mahato	Vill. Kachiyana, P.O. Kachiyana, Distt. Monghyre.
13.	Dsonandan Yadav	Biranchi Cope	Vill. Darha, P.O. Darha, Distt. Monghyre.

Sl. No.	Name of the worker	Father's name	Address
14.	Hirday Narayan Paswan	Budhu Paswan	Vill. Makduwan, P.O. Sinthu, Distt. Nalanda (Bihar Sharif).
15.	Ram Krit Prasad	Bhattu Prasad	Vill. Makduwan, P.O. Sinthu, Distt. Nalanda (Bihar Sharif).
16.	Ram Naresh Prasad	Girja Prasad	Vill. Hasanpur, P.O. Paithna, Distt. Nalanda (Bihar Sharif).
17.	Suresh Chakravorty	S. D. Chakravorty	Vill. Brahmuan Derari, P.O. Shulambarareo, Distt. Dhanbad.
18.	Upendra Singh	Sri Dehu Singh	Vill. Ichoi, P.O. Tohri, Distt. Gaya, (Bihar).
19.	Surendra Singh	Mathura Singh	Vill. Palay, P.O. Palloy, Distt. Gaya.
20.	Rameshwar Mandal	Faudi Mandal	Vill. Ram Nain Bigha, P.O. Kachauri, Distt. Gaya (Bihar).
21.	Raj Kumar Mandal	Faudi Mandal	Vill. Nain Bigha, P.O. Kachauri, Distt. Gaya.
22.	Ram Lakan Rajwar,	Gangu Rajwar	Vill. Gonashdih Chorwar, P.O. Samrigarh, Distt. Newada.
23.	Shaukat Ali	Hidayat Ali	Vill. Bhowra No. 7, P.O. Bhowra No. 7, Distt. Dhanbad.
24.	Fazle Haque	Panchu Haque	Vill. Bhowra No. 7, P.O. Bhowra No. 7, Distt. Dhanbad.
25.	Nandlal Ravidas	Jaishri Jaswara	Vill. Utru Kala, P.O. Baigraygera, P.S. Bekra, Distt. Sainpur.
26.	Sukundeo Bhuiya	Ram Bhuiya	Vill. Dharampur, P.O. Manarpur, Distt. Monghyre (Bihar).
27.	Dhobi Yadav	Mahabir Yadav	Vill. Nichli Sabha, P.O. Gidhour, Distt. Monghyre (Bihar).
28.	Raj Kishore Ram	Mahabir Ram	Vill. Jeetpur, P.O. Jeetpur, Distt. Dhanbad.
29.	Mangal Singh	Teja Singh	Vill. Nunudih Jeetpur, Quarter No. 3, P.O. Jeetpur, Distt. Dhanbad.
30.	Mahadeo Rajwar	Kalu Rajwar	Vill. Partapur, P.O. Baida, Distt. Gaya
31.	Md. Bashir	Md. Majid	Vill. Chatrochatti, P.O. Chatrochatti, Distt. Giridih (Bihar)
32.	Gautam Chakravorty	N. C. Chakravorty	Vill. Pannagarh, P.O. Pannagarh, Bazar, Distt. Burdwan (W. B.)
33.	Sita Ram Paswan	Chatitra Paswan	Vill. Biruwa, P.O. Berchi, P.S. Rafiganj, Distt. Aurangabad (Bihar)
34.	Lakshmi Turi	Karman Turi	Vill. Chorkatta, P.O. Bargadih, Distt. Senthal Pargana (Dumka).
35.	Ejaz Khan	Majid Khan	Vill. Malway, P.O. Nabinagar, P.S. Jamui, Distt. Monghyre (Bihar).

Sl. No.	Name of the worker	Father's name	Address
36.	Rameshwar Murmu	Thakur Murmu	Vill. Paharpur, P.O. Narayanpur, Distt. Dumka (Santhal Pargana)
37.	Puti Murmu	Dasrath Murmu	Vill. Paharpur, P.O. Narayanpur, Distt. Dumka (S. P.).
38.	Nunulal Murmu	Manjhi Murmu	Vill. Paharpur, P.O. Narayanpur, Distt. Dumka (S.P.).
39.	Sikar Murmu	Marku Murmu	Vill. Paharpur, P.O. Narayanpur, Distt. Dumka (S. P.)
40.	Basudeo Soren	Photu Soren	Vill. Luaio, P.O. Dumri, Distt. Giridih (Bihar)
41.	Md. Muslim	Md. Jamal	Vill. Khutra, P.O. Elawal, Distt. Hazaribagh
42.	Nagina Prasad	Gopal Prasad	Village Bari Gulni, P.O. Bari Gulni, Distt. Nawada (Bihar)
43.	Kaleshwar Rao	Ishwar Rao	Vill. Neampura, P.O. Kharagpur, Distt. Mednapur (W.B.)
44.	Uday Sao	Jairam Sao	Vill. Gadapur, P.O. Pakharpur. P.S. Arwal, Distt. Gaya (Bihar)
45.	Chandeshwar Yadav	Surju Yadav	Vill. Dham, P.O. Aonti, Distt. Gaya (Bihar)
46.	Chaitu Sao	Dallu Sao	Village Nunudih, P.O. Jitpur, Distt. Dhanbad
47.	Naresh Singh	Babu Ram Singh	Vill. Kharwan, P.O. Kona, Distt. Aurangabad
48.	Shyam Reddy	Mahekar Reddy	Vill. Khaapa Shantrapur, P.O. Kuspara, Distt. Daranpur (Orissa)
49.	Jageshwar Yadav	Bodhi Yadav	Vill. Dashero, P.O. Parsabad, Distt. Hazaribagh
50.	Budhan Yadav	Lali Yadav	Vill. Alakdiha, P.O. Suda Distt. Hazaribagh
51.	Surendra Ram	Juwa Ram	Vill. Sasundi, P.O. Sosund Distt. Nalanda (Bihar)
52.	Nanku Singh	Sri Sukar Singh	Vill. Dasharo, P.O. Parsabad, Distt Hazaribagh
53.	Narayan Ram	Horil Ram	Vill. Jeetpur P.O. Jeetpur, Distt. Dhanbad
54.	Lalmohan Mahato	Suman Mahato	Vill. Jeetpur, (Nunudih) P.O. Jeetpur, Distt. Dhanbad
55.	Indradeo Yadav	Suraj Yadav	Vill. Durjan Bigha, P.O. Maulviganj Bouthu, Distt. Aurangabad

नई दिल्ली, 28 अप्रैल, 2010

का. आ. 1399.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी. सी. सी. एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं.-2 धनबाद के पंचाट (संदर्भ संख्या 70/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-4-2010 को प्राप्त हुआ था।

[सं. एल-20012/26/2004-आई आर (सी-1)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th April, 2010

S.O. 1399.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/2004) of the Central Government Industrial Tribunal/Labour Court No.-2 Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s B.C.C.L. and their workman, which was received by the Central Government on 28-4-2010.

[No. L-20012/26/2004-IR(C-I)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT DHANBAD

PRESENT:

Shri H. M. Singh, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 70 of 2004

PARTIES:

Employers in relation to the management of Tapin North Colliery of M/s. C. C. Ltd. and their workman.

APPEARANCES:

On behalf of the workman : Mr. D. Mukherjee,
Advocate

On behalf of the employers : Mr. D. K. Verma,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 15th April, 2010

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of

the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/26/2004-I.R. (C-I), dated, the 8/16-6-2004.

SCHEDULE

“Whether the action of the management of Tapin North Colliery of M/s. C.C. Ltd. not to accept 6-6-1951 as the date of birth of Shri Rahimuddin Ansari, the workman is justified ? If not, to what relief is the concerned workman entitled ?”

2. In the Written Statement filed on behalf of the workman it has been stated that the concerned workman has been performing work as an Electrician at Tapin North Colliery on and from 22-11-1974 with entire satisfaction of the management and unblemished record. The date of birth of the concerned workman has been shown as 6-6-1951 in the Service Excerpt issued to him on 1-4-1987. In the L.T. C. Form ‘A’ which was filled up to avail leave and in the record of the Life Insurance Corporation his date of birth has been shown as 6-6-1951. Moreover, in various statutory record his date of birth has been recorded as 6-6-1951.

3. It has been further stated that the Age Determination Committee/Age fixation Committee had assessed the age of the concerned workman on 6-6-86 as 35 years. That means the date of birth of the workman is 6-6-1951. The Personnel Manager and the Medical Superintendent both of Tapin North Colliery had jointly given in writing that the age of Shri Rahimuddin Ansari is 50 years on 7-7-2001. It has been alleged by the workman that the management has prepared a service book on the basis of concocted and fabricated information and has also not been signed by the competent authority who was posted at that relevant time of its preparation. The management has always tried to conceal the factual position of the case on the basis of manufactured, fabricated and concocted records. Being aggrieved by such act of the management the concerned Workman rushed from pillar to post for rectification but all his efforts went in vein. It has been further stated that it also appeared from various records that the Officer concerned who had signed on service book and other various records as a Nodal Officer were not posted at North Tapin Colliery at that relevant point of time, when their records were prepared. Each and every document of the management show that the date of birth of Shri Rahimuddin Ansari is 6-6-1951. When the management was not acceded to listen the reasonable demand of the union it had raised an industrial dispute before the ALC (C) Hazaribagh which ultimately resulted reference to this Tribunal for adjudication. Accordingly it has been prayed on behalf of the workman to pass an Award directing the management to accept 6-6-1951 as the date of birth of Shri Rahimuddin Ansari, the concerned workman.

4. In the Written Statement filed on behalf of the management it has been stated that the present reference is not maintainable either in law or in fact. The concerned workman raised the industrial dispute after a lapse of 19 years and that being the position the present dispute is a stale dispute. Initially as the date of birth of the concerned workman was not recorded in the service file of the concerned workman, a committee comprising of Colliery Manager, Colliery Personnel Officer and Colliery Medical Officer was constituted in the year 1986 to assess the age of the concerned workman. Accordingly the said committee assessed the age of the concerned workman as 38 years as on 6-6-1986 and submitted a report in this connection to the management. Management in its turn determined the age of birth of the concerned workman as 6-6-1948 and recorded the same in all statutory records, such as in service file and also in the Form B Register.

5. It has been further stated by the management that the concerned workman by putting his signature in Form B Register accepted the date of birth mentioned therein as 6-6-1948. He also put his thumb impression in service book in which his date of birth has been mentioned as 6-6-1948. Management has stated further that the Form B Register is a statutory register maintained under the Mines Act and Mines Rules and entries made therein are final for all the purpose. The concerned workman cannot raise the industrial dispute for correction of his date of birth already mentioned in Form B Register and service file after the lapse of 19 years. Accordingly prayer has been made by the management to pass an Award holding that the demand of the union for correction of the date of birth of the concerned workman is neither and justified.

6. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paras of each other's Written Statement.

7. Workman side in order to substantiate the case of concerned workman has examined Rahimuddin Ansari, the concerned workman as WW-1 who has proved documents marked as Ext. W-1, W-2, W-3, W-3/1, W-4, W-5 and W-5/1. They have also produced and examined Thakur A. K. Singh as WW-2 who has identified his signature on Ext. W-1. On behalf of the management Mr. B. K. Sinha and Mahesh Sao have been examined as MW-1 and MW-2 respectively. The documents on their behalf have been marked as Ext. M-1 to M-4.

8. Main argument advanced on behalf of the concerned workman is that his date of birth is 6-6-51 and management have wrongly fixed his date of birth as 6-6-48. In this respect the management counsel argued that in the Form B Register which has been signed by the concerned workman, his date of birth is recorded as 6-6-48 and in service excerpt also his date of birth is recorded as 6-6-48 which cannot be changed. Moreover, in L.T.C. which has been submitted by the concerned workman he has

mentioned his age as 47 years in the year 1995. He cannot ignore it on which basis he is claiming benefits from the management. In the Service Book marked at Ext. M-3 which has been signed by the concerned workman also shows that the date of birth recorded therein is 6-6-48. Ext. M-1 also shows his date of birth recorded therein is 6-6-48 which has been signed by him. All these are statutory document which cannot be ignored.

9. Another argument advanced on behalf of the concerned workman is that Thakur A. K. Singh who has been examined as WW-2 has identified his signature on Ext. W-1 in which the age of the concerned workman has been assessed as 38 years by the Board on 6-6-86. This document shows that it has been over written at one place but in another place 38 years has been mentioned but it has not been overwritten. It shows that this overwriting has not been authenticated by all the committee members which may give benefit to the concerned workman that his age has been assessed as 38 years. This correction shows doubt about this report and the date of birth recorded in the statutory records maintained by the management cannot be denied.

10. The concerned workman has referred to a decision reported in 2005(4) JLJR page-15 of Hon'ble High Court, Jharkhand, Ranchi in which Hon'ble High Court laid down the following :

“Report of the Age Verification Medical Board which contained the signature of concerned workman was the conclusive proof of his age which cannot be allowed to be challenged by the concerned workman.”

But from the Medical Committee Report marked as Ext. W-1 there is overwriting which casted some doubt about its authenticity. The concerned workman also referred to another decision reported in 1960 (1) LLJ 548 = (1960-61) FJR 539 in which Hon'ble Supreme Court laid down the following :

“If a person is to prove that he was ill on a particular date, the mere filing of a certificate of a medical man that he was ill on that date is not accepted as evidence to show that he was ill. The correctness of the statement made in the certificate has to be proved by an affidavit or oral testimony in court by the Doctor concerned or by some other evidence. There is no reason why an exception should be made in the case of balance-sheets prepared by Companies for themselves. It has to be borne in mind that in many cases the Directors of the Companies may feel inclined to make incorrect statements in these balance-sheets for ulterior purposes. While that is no reason to suspect every statement made in these balance-sheets the position is clear that we cannot presume the statements made therein to be always

correct. The burden is on the party who asserts a statement to be correct to prove the same by relevant and acceptable evidence. The mere statement of the balance-sheet is of no assistance to show therefore that any portion of the reserve was actually utilized as working capital."

11. Management counsel argued that WW-1 in his cross-examination at page-3 has stated "Form B Register marked as Ext. M-1 bears my LTI and signature and also in Service Book marked as Ext. M -2 bears my signature." It has also been stated by the concerned workman at page-3 "I had not given anything in writing as to why I was required to attend the age assessment committee when my date of birth was already recorded. When my age has been recorded as 38 years by the age assessment committee my date of birth has been fixed as 6-6-1948. Such date of birth 6-6-48 has been mentioned in the records later."

12. When the age of the concerned workman has already been assessed by the Assessment Committee, there is no question to refer him again to the Medical Board for assessment of his age. Moreover, in the statutory registers i.e. Form B Register and Service Book his date of birth 6-6-48 has been mentioned. In the L.T.C. Form-A marked as Ext. M-4 submitted by the concerned workman, he has mentioned his age as 47 years in 1995. This L.T.C. from 16-6-95 to 24-6-95 he has availed. It also supports that his date of birth is 6-6-48.

In view of the facts, evidence, citation of rulings and circumstances discussed above I find no merit in the claim of the concerned workman. Accordingly, following Award is rendered :

"The action of the management of Tapin North Colliery of M/s. C. C. Ltd. not to accept 6-6-1951 as the date of birth of Shri Rahimuddin Ansari the workman is justified. Consequently, the concerned workman is not entitled to get any relief."

H. M. SINGH, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2010

का. आ. 1400.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी. सी. सी. एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय सं.-1, धनबाद के पंचाट (संदर्भ संख्या 88/1990) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-4-2010 को प्राप्त हुआ था।

[सं. एल-20012/274/1986-आई आर (सी-1)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th April, 2010

S.O. 1400.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 88/1990) of the Central Government Industrial Tribunal/Labour Court No.-1 Dhanbad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s B.C.C.L. and their workmen, which was received by the Central Government on 28-4-2010.

[No. L-20012/274/1986-IR(C-I)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10 (1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 88 of 1990

PARTIES:

Employers in relation to the management of Moonidih Area of M/s. B. C. C. Ltd. and their workmen

PRESENT:

Shri H. M. Singh, Presiding Officer

APPEARANCES:

For the Employers : None

For the Workmen : None

State : Jharkhand Industry : Coal

Dated, the 7th April, 2010

AWARD

By Order No. L-20012(274)/86-D. III (A)/IR(C-I) dated 19-4-1990 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Moonidih Area of M/s. B.C.C. Ltd. in denying fixation of work load and wages rates in respect of Mechanised face crew as per the provision of NCWA-III under clause 3.6.1 and Implementation Instructions of JBCCI is justified ? If not, to what relief are the concerned workmen entitled ?"

2. Written statement has been filed on behalf of the workmen stating therein that all the mechanised face crew

employed at Moonidih Project have been working as Multi-skilled workmen on the system of "all men all jobs" since long with unblemished record of service. All the concerned workmen represented their claim for fixation of work-load and wage-rate through their union, Janta Mazdoor Sangh.

The matter was discussed in a meeting between the management and the union on 28-12-85 when the management informed the union that the matter was under consideration and decision will be communicated before long. Thereafter the management with an ulterior motive informed the union representative that the aforesaid matter have already been settled with Rashtriya Colliery Mazdoor Sangh. The concerned workmen and the sponsoring union challenged the legality of the so-called alleged settlement. But the management refused to settle the issue amicably. Thereafter the concerned workmen and the sponsoring union raised an industrial dispute before the A.L.C. (C), Dhanbad which ended in failure due to the adamant attitude of the management. During the course of conciliation proceeding it was revealed that the alleged settlement with R.C.M.S. was as clause 3.6.1 of NCWA-III whereas the demand of the sponsoring union to fix the work-load and rates as per clause 3.6.1 of NCWA-III. The action of the management in denying to fix work-load and wage rate in respect of Mechanised Face Crew from the very inception of Multi skilled working system in March, 1980 was illegal, unjustified and against the provision of NCWA.

It has been prayed before this Hon'ble Tribunal to pass an award by directing the management to fix the work-load and wage rates as mentioned above with retrospective effect with all arrear of wages and consequential attendant benefits.

3. The management has filed written statement stating therein that group wages as well as work load for piece rated miners/loaders working in conventional system of winning coal have been fixed in Wage Board Recommendations and NCWA. As per NCWA-III all such miners/loaders have been fixed in group VA with the basic wages of Rs. 24.85 per day with varying work loads according to mode of winning and loading coal into tubs. The basic is the same for all miners/loaders but the workload is different according to different operations performed by a group of miners/loaders. Clause 3.8.1 of NCWA-III guide lines have been provided for revision of group wages for the piece rated workers for which specific group wages and work-load have not been fixed. For the piece rated face workers like miners/loaders, the group VA wages has been revised from Rs. 18.15 to Rs. 24.50 and the increased percentage has to be calculated and the other piece rated face workers have to be given some percentage of increase in their group wages. Talking the guide line provided at clause 3.8.1 of NCWA-III, the work load and group wages for multi-skilled workers engaged at mechanised faces were finalised and conciliation

settlement was arrived at between the parties on 4-7-86. As per the aforesaid settlement the group wages for multi-skilled workers were fixed at Rs. 27.50 per day for those engaged in semi-mechanised long-wall face and Rs. 36.00 per day for those engaged in semi-mechanised road Header Face and Rs. 24.85 for general piece rated workers at per with miner/loaders engaged in conventional coal faces. The workload was also similarly fixed for the multi-skilled workers. The allowances were also fixed in the settlement. It has been submitted that the aforesaid settlement is binding on all parties as per the provision of Industrial Disputes Act, 1947 and during the subsistence of the aforesaid settlement, no further dispute can be raised by any other union.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the concerned workmen are not entitled to any relief.

4. Both parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's Written Statement.

5. Notices were sent to the parties on 26-6-09 fixing the date for hearing of argument on merit on 14-8-2009, but neither of the parties appeared on that date.

6. I perused the written statements and considered the evidence produced by the management and the workmen.

7. The management has produced MW-1, K. N. Prasad, who has proved Ext. M-1. The concerned workmen have produced WW-1, Kamla Ahir, who has proved Exts. W-1 and W-2. The workmen also produced WW-2, Gangesh Prasad Singh who has proved Ext. W-3.

8. Main argument advanced on behalf of the workmen is that they are entitled for basic wages of Rs. 75.25 per head per day and demanded work load of 2 tonnes per head per day and the work load of road headers should be 1.5 tonnes per head per day. It has been demanded that the management should pay according to work-load.

9. In this respect the management argued that there is Central Wage Board recommendation and N.C.W. As in which it has been finalised between the management and workmen that road header system and long wall face are prevalent at Moonidih Colliery. Conveyors are placed along side long wall face and road header. Blasted coals fall on the conveyor and some portion of blasted coal are required to be loaded on the conveyor by shovel. Coal is also obtained by cutting through machine and such coal falls on to the conveyor at the road header face and also long wall face and such coal is also loaded on the conveyor belt. It has been argued that the wages and work load of multi skilled workmen and face crew are fixed from time to time by agreement with the union and in 1986 the settlement was arrived at between the management and the union.

R.C.M.S., Ext. M-1. This settlement was effected after NCWA-III and on this settlement the work load and wages are fixed. It has also been argued that the claim for fixation of work load and wages of road headers-multi skilled workmen including face crew is not justified. In this respect the evidence of WW-1 is very much important. WW-1, Kamla Ahir stated in cross-examination at page 2 that "I do not remember whether any settlement was arrived at between the management and union over fixation of wages of multi-skilled workmen during 1975, 1976 and 1977. I do not know when or from which year NCWA-II came into force. I am not in a position to state group wages during 1980, 1981 and 1982. I do not remember if out wages were fixed by any settlement with any of the union. I do not know that was the rate of wages fixed for multi-skilled worker as per NCWA-III. At the road header face coal is cut by machine and loaded by the machine on to the conveyor. From the conveyor coal is carried to the belt and from there to bunkar on underground from where the same is loaded into tubs. At page 3 of his cross-examination, the workman stated that "naturally coal is raised considerably from the road-header face. Coal is not won by the method of blasting in the faces where we have been working." This statement shows that he has admitted that coal is not won by the method of blasting in the faces where the concerned workmen have been working. It shows that their demand is not justified by their own statement because they are not working by the method of blasting in the faces. Again WW-1 stated in cross-examination at page 3 that "I have got no idea as method of work in other face where we have had no occasion to work. Now I have been getting Rs. 58 per day as basic wage. I have no knowledge about settlement made by the management and R.C.M.S. Union in 1986. I do not remember the wages we used to get during 1986-87. Since I have never worked in the face where coal is won by the method of blasting, I cannot say if the requirement of manpower is more there than the faces in which we have been working. According to us, our work load should have been fixed 2 tonnes per head per day. I cannot say what should be work-load of workmen where coal is won by blasting method. I cannot say if the workmen have to carry the load of coal manually from the face to loading point where coal is won by blasting method. I cannot say if the work load of such workmen has been fixed 2 tonnes per head per day. He has not worked where blasting is done by machine. WW-2 in his cross-examination at page 2 stated that "I never was a member of any Wage Negotiation Committee. I never was a member of Joint Bipartite Committee of Coal Industry. That Committee decides the wage structure of coal workers and is constituted with the management representative and the representatives of major unions. I have not worked in any colliery. I have not worked on road-header or face machine. so, the above statement of WW-2 is not very much helpful to the workmen.

Ext. M-1 shows that there was a settlement dated 4-7-1986 between the management and R.C.M.S. on which basis work-load and group wages have been fixed.

Considering the evidence produced by the management and the concerned workmen it shows that the concerned workmen are not entitled to any type of relief.

10. Accordingly, I render the following award :

The action of the management of Moonidih Area of M/s. B.C.C. Ltd. in denying fixation of work-load and wages rates in respect of Mechanised face Crew as per the provision of N.C.W.A. III under clause 3.6.1 and Implementation Instructions of J.B.C.C.I. is justified and the concerned workmen are not entitled to any relief.

H. M. SINGH, Presiding Officer

नई दिल्ली, 28 अप्रैल, 2010

का. आ. 1401.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, सं. 1, धनबाद के पंचाट (संदर्भ संख्या 30/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-4-2010 को प्राप्त हुआ था।

[सं. एल-20012/311/98-आई आर (सी-1)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th April, 2010

S.O. 1401.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/99) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C.C.L. and their workman, which was received by the Central Government on 28-4-2010.

[No. L-20012/311/98-IR(C-1)]
AJAY KUMAR GUAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, AT DHANBAD

PRESENT:

Shri H.M. Singh, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 30 of 1999

Parties : Employers in relation to the management of Sirka Colliery of M/s. C.C.L. and their workman

Appearances :

On behalf of the workman : Mr. D. Mukherjee, Advocate

On behalf of the employers : Mr. D.K. Verma, Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 5th April, 2010

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/311/98-I.R. (C-I), dated, the 22nd February, 1999.

SCHEDULE

"Whether the action of the management of Sirka Colliery of M/s. CCL for not allowing Shri Bishun Ram L.D.C. to resume his duty with full back wages and consequential benefits for the idle period is justified? If so, what relief the concerned workman is entitled?"

2. In the Written Statement filed on behalf of the concerned workman it has been stated that Sri Bishun Ram has been working as a permanent workman at Sirka Colliery of M/s. C.C.L. since long with unblemished record of service. All of a sudden the Management issued a false and frivolous charge-sheet dated 28-10-95 wherein and whereby various false and frivolous allegations were levelled against the concerned workman and the concerned workman was also suspended on the basis of such flimsy allegation. The concerned workman had submitted his reply to the charge sheet denying all the charges levelled against him emphatically. Though the reply submitted by the concerned workman was satisfactory enough till then the anti-labour management constituted an invalid and irregular departmental enquiry through a biased and prejudiced Enquiry Officer. It has been alleged by the workman side that the management was biased and prejudiced against the concerned workman which is evident from the fact that though the concerned workman was suspended by an Order dated 28-10-95 till then the management issued a transfer order dated 31-7-95 directing the concerned workman to report for his duty at Ranchi.

3. It has been alleged by the workman that though legally the management has no power to issue transfer order without revoking the suspension order till then the concerned workman reported for his duty at Ranchi but the management of Ranchi did not allow him to resume his duty and the concerned workman reported back to the management the management thereafter issued a transfer letter in the garb of issuing corrigendum wherein and whereby the concerned workman was asked to report for his duty at Giridih and accordingly the concerned workman reported for his duty at Giridih but the management of Giridih did not allow him to resume duty in the office on the ground that there was no vacancy. Therefore, it is crystal clear that the concerned workman was issued the letter of transfer during his continuance of suspension period with a mala fide intention to harass and humiliate the concerned workman and there was no trade reason to transfer the concerned workman. It has been alleged by the concerned workman that the transfer order was illegal, arbitrary, unjustified and against the Provisions of the Standing Orders. Moreover, the transfer order is vindictive in nature and smacks of anti-labour policy of the management. The concerned workman reported back to the management. The management of Giridih did not allow him to resume duty, so he prayed that he may be allowed to resume duty at Sirka but the management of Sirka did not allow him to resume duty. Seeing no other alternative the Union on behalf of the concerned workman raised an industrial dispute before the Asstt. Labour Commissioner (Central), Hazaribagh which resulted reference to this Tribunal for adjudication. It has been prayed on behalf of the concerned workman to pass an Award directing the management to allow the concerned workman to resume his duty with full back wages and other attendant benefits.

4. Written Statement has been filed on behalf of the management wherein it has been stated that the present reference is not legally maintainable. They have further stated that the concerned workman was dismissed from his service by order dated 9th October, 1998 and, as such, the question of allowing him to resume his duties by the management of Sirka Colliery did not and cannot arise. As the dismissal of the concerned workman was legal and valid in accordance with the provision of law, the question of payment of wages and benefits after the date of his dismissal did not & cannot arise.

5. It has been stated by the management that the concerned workman was found to be indulged in commission of serious misconducts during the course of his employment at Sirka Colliery in the capacity of LD.C. the concerned workman was entrusted to perform the jobs of processing LTC/LLTC Bills of the workers of Sirka Project. In course of his performance of jobs it was detected that he did not carry on the duties himself and engaged an outsider named Md. Samsul in processing of LTC/LLTC bills at his own volition without knowledge or permission

of the Project Officer or any other competent officer. When the Chief Vigilance Officer of the Company made inspection on 24-8-95 the concerned workman admitted his guilt in writing that he did not perform his specified jobs in processing LTC/LLTC Bills entrusted to him and he engaged an outsider for performing such jobs.

6. It has been alleged by the management that the concerned workman developed the habit of absenting from his duties without submitting leave application or giving intimation to this controlling authority and was engaging the aforesaid person for performing his jobs during such unauthorised period of his absence. Some times no job was being performed by any person and the management was facing difficulties for not preparing the bills for making payment to the workers. During the inspections made by Shri I.N. Jha, Deputy Chief Vigilance Officer of the Company, the concerned workman was not found on duty and he had absented without information or permission from the management. Accordingly the Project Officer/Agent of Sirka Colliery issued the chargesheet dated 28-10-95 containing various allegations against the concerned workman charging him under the provisions of Certified Standing Order. He was also kept under suspension with effect from 30-10-95 during the pendency of the enquiry. In course of vigilance enquiry it was detected that the concerned workman adopted various mal practices in connivance with other staff and officers in the matter of LTC/LLTC payment. During the process of investigation, it was observed that a fire took place in the night of 18/19-3-96 in the record room of area accounts officer, Argada area where original records relating to payment of LTC/LLTC benefits to Sirka Colliery were kept and serious damage occurred to the relevant documents concerning this case. In view of the above position the management did not consider it safe to retain the concerned workman at Sirka Colliery as there was apprehension that he could indulge in criminal activities with the aid and assistance of some undesirable elements in getting the records destroyed or create undue influence by perpetuating threats and intimidation in proper investigation of the matter and was transferred to Ranchi with advice to report at the Headquarter for getting his attendances marked for enabling him to draw his subsistence allowance. He was issued the letter of transfer dated 31-7-96 and was released by officer order dated 2-8-96. He was paid his subsistence allowance, upto 2-8-96 and was allowed to report at Ranchi to the General Manager (PIR-C) CCL, Ranchi headquarter. The concerned workman did not join at Ranchi.

7. Thereafter a chargesheet dated 6/7-9-96 on the basis of the report of the vigilance department relating to the instance of fire, was issued to the concerned workman who was one of the participants in manipulating things to cause a fire in the record room for the purpose of getting the documents destroyed to evade departmental action against him. After verification and enquiries it was detected

that the concerned workman in connivance with others caused financial loss to the company to the extent of Rs. 1 crore 56 thousand 423 and paise 6 only. Then again a chargesheet dated 22/31-12-97 was issued to the concerned workman relating to the acts and commissioner committed by him in causing such a huge loss to the company by way of LTC/LLTC payment. In the meantime management proceeded with the departmental enquiry relating to the first chargesheet dated 28-10-95 issued to him after receipt of his reply denying the allegations levelled against him. Sri Bijoy Swaroop, Deputy Personnel Manager (EE), CCL, Ranchi, was appointed as Enquiry Officer by Office order dated 24-8-96 for conducting the departmental enquiry relating to the charges levelled against him by chargesheet dated 28-10-95. The Enquiry Officer conducted the departmental enquiry relating to the charges levelled against him and submitted his report dated 19-11-97 holding the concerned workman guilty of the charges mentioned at para Nos. 1 & 2 and exonerated him from the charges mentioned at No. 3 of the chargesheet. A copy of the enquiry report was given to the concerned workman and the concerned workman submitted his representation dated 20-4-98. The Disciplinary authority after examining all the facts and circumstances of the case decided to dismiss the concerned workman from service. Accordingly he was dismissed by order dated 9th October, 1998. It has been stated by the management that the other two chargesheets issued to the concerned workman were kept in abeyance as the charges committed by him already established in the enquiry were sufficiently grave in nature to dismiss him for his services.

Accordingly it has been prayed on behalf of the management to pass an Award holding the dismissal of the concerned workman as justified and that the concerned workman is not entitled to get any relief.

8. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paras of each other's Written Statement.

9. Management side in order to substantiate their claim have produced Umesh Singh who has been examined as MW-1. He has proved documents marked as Exts. M-1, M-2 and M-3. Workman side in order to substantiate their claim has produced the concerned workman Bishun Ram who has been examined as WW-1. He has proved documents marked as Exts. W-1 and W-2.

10. Main argument advanced on behalf of the concerned workman is that he has not been paid wages after issuance of chargesheet dated 28-10-95 till the date of termination. He has been transferred from one place to another place by the management but he has not been allowed to join duties without his no fault and he cannot be blamed in any way and he is entitled wages due to the fault of the management when the management representative has not allowed to join at the place of posting.

11. It has been argued on behalf of the management that regarding his termination, as he has been terminated from service, a dispute is pending before the Central Govt. Industrial Tribunal No. 2, Dhanbad and the dispute has been registered there as Ref. No. 293/99. It has been argued that this reference regarding his dismissal is pending and the matter will be decided by Central Govt. Industrial Tribunal No. 2, Dhanbad.

12. In this respect the statement of the concerned workman WW-1 is very much material when he has stated in cross-examination at page 2. "Another case of mine is pending in Tribunal No. 2, Dhanbad. I have been dismissed by the management. Against that dismissal I have raised a dispute which is pending in Tribunal No. 2, Dhanbad." Regarding participation in the enquiry in the dismissal case he has stated. "I had participated in the domestic enquiry". Moreover, the papers which have been filed by the management are the certified copies shows that already on 15-12-2005 in Ref. No. 293/99 it has been held by Central Govt. Industrial Tribunal No. 2, Dhanbad that the domestic enquiry held against the concerned workman was fair and proper regarding the dismissal of the concerned workman.

13. The argument advanced by the concerned workman is that he was transferred during suspension period and there is no specific provision for transfer of workman during suspension period. MW-1 stated in cross-examination at page-2. "There is no specific provision of transferring any suspended employee." Suspension is not a punishment in the eye of law. So there is no bar for transferring any person from one place to another place during suspension period. No such specific provision is required for transferring any person. The concerned workman was transferred under the signature of Hardwar Singh to CCL Hqrs. Ranchi and he was released from Sirka Colliery. He was dismissed on the ground that he was a habitual absentee and in his respect management conducted a vigilance enquiry in which it has been detected that an outsider is working in his name and the concerned workman tendered apology for such conduct and for which he was chargesheeted and dismissed after holding departmental enquiry.

14. The concerned workman reported for duty when he was transferred on 3-8-96 to Headquarters, Ranchi but he was not allowed to resume duty and another office order was issued by the Project Officer, Sirka Colliery when he was released from 3-8-96 and another office order dated 14-8-86 was issued where he was directed to report for duty to the General Manager, Giridih Area and the management of Giridih Area also refused him to join as Giridih Area had surplus workmen. He has given his joining letter on 6-9-96. As per Ext. W-2 when Giridih Area did not allow him to resume he again reported the matter to Sirka Management along with endorsement of Giridih Area in his joining letter. The Sirka management did not allow him

to join his duty. So wages of idle period has been demanded by the concerned workman. The joining report dated 6-9-96 is marked X for identification is in the file.

15. The concerned workman's representative argued that in the enquiry report at page-31 question No. 3 it has been stated by the management witness whether Md. Samsul, an outsider in place of Bishun Ram is working the reply has been received 'No.' There is no such person working in place of Bishun Ram. Another argument advanced on behalf of the concerned workman is that at page -32 of the Enquiry report regarding question No. 8 it has been stated by the management witness whether vigilance which has forfeited LTC/LLTC bill you can say by seeing it that whose outsider signature is there the reply has been made that on this paper there is signature of A.K. Sinha, Sr. P.O. and Bishun Ram. Another reference was made by the workman representative that in the enquiry report at page No. 34 question No. 17—whether you have got any information regarding work of outsider Md. Samsul to which he has replied that "I have got no knowledge because I have not seen such person in the office." To another question No. 18 regarding preparation of L.T.C. Bill in addition to Bishun Ram if other person used to prepare? The management representative answered "I have got no knowledge." On these facts this should be considered by the CGIT No. 2, Dhanbad where the reference regarding the dismissal is pending. The above matter of enquiry proceeding has not be decided here at all. Whether dismissal of the concerned workman is found to be not justified and whether or not he is entitled full back wages since his suspension will be considered in Ref. No. 293/1999. The management representative has stated that he was getting subsistence allowance from the date of suspension. As the concerned workman was suspended by the management and he was transferred during suspension period and after that he was dismissed from service, the dismissal of service after suspension is pending before the Central Govt. Industrial Tribunal No. 2, Dhanbad in Ref. No. 293/1999 it will not be prudent to pass Award in this Reference case. Accordingly the reference fails.

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1402.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, सं. 1, धनबाद के पंचाट (संदर्भ संख्या 195/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-20012/318/96-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1402.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 195/97) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 5-5-2010.

[No. L-20012/318/96-IR(C-1)]
AJAY KUMAR GUAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of the
Industrial Disputes Act, 1947

Reference No. 195 of 1997

Parties : Employers in relation to the
management of Tapin South
Colliery of M/s. C.C.L.

AND
Their workmen

PRESENT :

Shri H.M. Singh, Presiding Officer

Appearances :

For the employers	: Shri D.K. Verma, Advocate
For the Workman	: Shri H. Nath, Advocate
State : Jharkhand	Industry : Coal

Dated, the 21st April, 2010

AWARD

By Order No. L-20012/318/96-IR(C-I) dated 20-11-97 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Tapin South Colliery of M/s. CCL in superannuating Sri Karma Mahto from the services of the management w.e.f. 29-9-1995 is justified? If not, to what relief is the workman entitled?”

2. Written statement has been filed on behalf of the concerned workman stating therein that he was served

with a notice on 14-5-95 and subsequently with letter dated 1-8-95 informing him that he will retire from the service of the company w.e.f. 29-9-95. After receiving the said information it was learnt that in the Computer i.e. with non-executive information system the date of birth was written as 29-9-1935 instead of 29-9-53 and he was retired on the basis of the computerised information regarding the age of the concerned workman. The computerised information regarding his age was completely wrong. In Form ‘B’ Register of the Company his date of birth is recorded as 29-9-53 which was wrongly corrected by the management as 29-9-35. In the service excerpt his date of birth is also mentioned as 29-9-53. In Form ‘A’ Register to the Coal Mines Provident Fund maintained by the management also the date of his birth is mentioned as 29-9-53. His date of birth as 29-9-53 is noted not only in one but all the various papers maintained by the company in their custody. The action of the management in superannuating the concerned workman from 29-9-95 is baseless and false and mischievous. An industrial dispute was raised before the A.L.C.(C), Hazaribagh, which ended in failure and thereafter the dispute has been referred to this Hon’ble Tribunal for adjudication.

It has been prayed that the Hon’ble Tribunal be pleased to pass an award holding that the action of the management in superannuating the concerned workman from service of the management w.e.f. 29-9-95 is unjustified and the concerned workman is entitled to reinstatement w.e.f. 29-9-95 with full back wages.

3. The written statement has been filed by the management stating therein that the concerned workman, Karma Mahato declared his date of birth as 29-9-35 at the time of writing Form ‘B’ Register and service-sheet and the aforesaid documents contained his date of birth as 29-9-35. It has been submitted that Form ‘B’ Register is being maintained u/s. 48 of the Mines Act, 1952 read with Mines Rules, 1955, the said document is considered to be authentic and the date of birth entered in the said document is considered as conclusive evidence to decide the time of superannuation. It has also been submitted that as the statutory document as well as the document maintained in the course of business contain the date of birth of the concerned workman as 29-9-35, he was rightly superannuated w.e.f. 29-9-95, as he attained the age of superannuation on the date, which is 60 years. The concerned workman has raised the present dispute after his superannuation alleging that his actual date of birth was 29-9-53 and the same had been incorrectly recorded in the company’s document including the computer as 29-9-35. He requested for correction of the year of birth from 35 to 53 in the statutory records as well as in the computer and to allow him to join his duties after making necessary correction in his year of birth. The request of the concerned workman could not be entertained in view of the delay and latches in the raising the dispute for

correction of his year of birth. It has been submitted that after retirement no industrial dispute can be raised for correction of date of birth as per principles of law enunciated by the Apex Court in number of cases. The concerned workman could not produce any authentic document in support of his claim that his actual date of birth as 29-9-53 and the recording of the date of birth as 29-9-35 was incorrect. It has been submitted that the concerned workman made an attempt to alter the year of birth from 1935 to 1953 in the Form 'B' Register and service sheet with the help of certain manipulations in connivance with the dealing clerk but, as the date of birth of the concerned workman had already been recorded in the computer as 29-9-35, he could not succeed in his attempt and he was superannuated with effect from 29-9-95 on the basis of computerised bio-data maintained in respect of the concerned workman.

It has been prayed that this Hon'ble Tribunal be graciously pleased to pass the award holding that the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman has examined himself as WW-1 and he has also produced WW-2, Maharang Keshri who has proved document as Ext. W-1.

The management has produced MW-1, Bishnu Prasad Singh, who has proved documents as Exts. M-1 and M-2.

6. Main argument advanced on behalf of the concerned workman that his date of birth should be 29-9-53 instead of 29-9-35. It has been argued that he was retd on the basis of the computerised information regarding his age which was wrong.

7. In this respect the management argued that in the statutory Form 'B' Register his date of birth has been mentioned as 29-9-35 and on that basis he has been superannuated w.e.f. 29-9-95. In this respect Ext. M-1 shows that this is superannuation letter and Ext. M-2 shows that his date of birth has been mentioned as 29-9-35 which has been corrected later on as 29-9-53.

In this respect the statement of the concerned workman is very much important. In cross-examination at page 2 the concerned workman has stated that "In Company's Form 'B' Register my date of birth is mentioned as 29-9-1935. I have got no certificate to show that my date of birth is 29-9-53. I have got no knowledge that my date of birth was reviewed by the committee. I have not made any application for correction of my date of birth. I do not know English. The affidavit was read by Neta. I do not give the name of Neta. My Affidavit is correct and which are written in it are correct. I filed writ petition before Hon'ble High

Court after my retirement. Hon'ble High Court has dismissed my writ petition." Form 'B' Register shows that his date of birth is mentioned as 29-9-35. When there is no certificate to show his date of birth as 29-9-53 and though the concerned workman is literate because he has signed Form 'B' register in which the date of birth has been mentioned as 29-9-35, so the claim of the concerned workman to change his date of birth from 29-9-35 to 29-9-53 is without any basis. It shows that with the connivance of the officials of the management the date of birth of the concerned workman has been changed in Form 'B' Register from 29-9-35 to 29-9-53 without any basis. Moreover, in Form 'B' Register, Ext. M-2 it has been mentioned that this 29-9-53 has been changed as per C.M.P.F. record. This also shows manipulation because of the fact that in CMPF record the date of birth has been shown on the basis of Form 'B' Register and it does not seem to be genuine that in Form 'B' Register the date of birth be changed as per date of birth mentioned in CMPF record because of the fact in CMPF register the date of birth which is mentioned there is on the basis of Form 'B' Register of the employee. It only shows that there is very hit argument on behalf of the management that the date of birth from 29-9-35 to 29-9-53 has been changed with the connivance of his co-worker.

8. Another argument advanced on behalf of the management that if his date of birth 29-9-53 be treated to be correct then it is not possible to get employment just when he has not even completed 21 years of age on the date of his employment on 1-5-1974.

In view of the discussions made above, I hold that the concerned workman is not entitled to any relief.

9. Accordingly, I render the following award :—

The action of the management of Tapin South Colliery of M/s. CCL in superannuating Sri Karma Mahato from the services of the management w.e.f. 29-9-1995 is justified and the concerned workman is not entitled to any relief.

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1403.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, सं. 1, धनबाद के पंचाट (संदर्भ संख्या 95/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-20012/30/96-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1403.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 95/97) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 5-5-2010.

[No. L-20012/30/96-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of the
Industrial Disputes Act, 1947

Reference No. 95 of 1997

Parties	: Employers in relation to the management of Bararee Colliery of M/s. B.C.C.Ltd. and Their Workman
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PRESENT:

Shri H.M. Singh, Presiding Officer

Appearances:

For the Employers	: Shri D.K. Verma, Advocate
For the Workman	: None
State : Jharkhand	Industry : Coal

Dated : the 19th April, 2010

AWARD

By Order No. L-20012/30/96-IR (Coal-I) dated 1-4-1997 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand by the Union for promotion by the management of Shri A.K. Singh in Clerk Grade-A in the year 1966, in Clerk Spl./Sr. Clerk in 1971 and as O.S. in Tech. & Sup. Grade-A from 1977 is legal and justified? If so, to what relief is the workman entitled?”

2. Written statement has been filed on behalf of the concerned workman that he was appointed as Clerk Grade ‘B’ in December 1962 when the Bararee Colliery was under

private management. After nationalisation he continued as such under the management of BCCL. After his appointment in the year 1962 he was deprived of his right promotion to the next higher grades.

He was matriculate and considering his eligibility his promotion was due as follows :

- (i) to the post of Clerk Grade ‘A’ in the year 1966,
- (ii) to the post of Sp. Grade/Sr. Clerk in the year 1971 &
- (iii) to the post of Office Superintendent in the Tech. & Supv. Grade ‘A’ w.e.f. 1977.

The management did not call him for any test or interview for his promotion to the next higher grade through Departmental Promotion Committee. The management promoted many junior clerks and some of them are working as Office Superintendent. The management has totally ignored the decisions of JBCCI for ministerial staff in the matter of promotion of the concerned workman in total violation of rules and norms of promotion.

It has been prayed before this Tribunal be pleased to pass an award in favour of the concerned giving all the reliefs claimed.

3. Written statement has been filed by the management stating that the concerned workman, A.K. Singh, was appointed in the year 1962. Prior to the nationalisation of the coal mines he was posted at Bararee colliery and was designated as Attendance Clerk in Clerical Gr. II. He was promoted to Clerical Grade-I in the year 1983 as per recommendation of D.P.C. subject to the availability of the post in the higher grade. Thereafter he would not be promoted due to non-availability of post in higher grade. However, the management jointly with the Trade Unions, took a decision at ‘JBCCI’ level that all such employees who were stagnating for more than 10 years in the same grade/category, they would be upgraded to the next higher Grade under the provision of S.L.U. under the provision of the above clause, A.K. Singh was upgraded and placed in Special Grade (Clerk) w.e.f. 1-7-1993 and performing the job of Attendance Clerk. As per the recommendations of the D.P.C. he could not be considered for promotion since there was no post in higher grade. In view of the facts and circumstances it has been submitted that the action of the management in denying promotion of A.K. Singh in Clerk Grade-A in the year 1966, in Clerk Special/Sr. Clerk in 1971 and as Office Supdt. in Technical & Supervisory Grade-A from 1977 is perfectly justified.

Accordingly, it has been prayed that this Hon’ble Tribunal be pleased to answer the reference in favour of the management.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other’s written statement.

5. The concerned workman produced himself as WW-1 who has proved Ext. W-1 and Ext. W-2.

The management has produced, MW-1, Awadesh Prasad Singh.

6. Main argument advanced on behalf of the concerned workman that the persons who are junior to him have been promoted in Grade-I, Special Grade/Sr. Clerk and Office Superintendent in Technical & Supervisory Grade 'A', but he has not been promoted because of his trade union activities. He was initially appointed as Clerk Grade 'B' in the year 1962 and was upgraded to the post of Grade 'A' Clerk under S.L.U. in the year 1983. But he should have been promoted to the post of Clerk Grade 'A' in the year 1966, to the post of Special Grade/Sr Clerk in the year 1971 and to the post of Office Superintendent in Tech. & Supervisory Grade 'A' w.e.f. 1977. But the management have not promoted him and not given due promotion in due time and it is against JBCCI decision and total violation of all rules and norms of promotion and the above act of the management is unfair labour practice.

7. The management argued that the demand of the concerned workman is unjustified, illegal and hence not tenable in law. It is correct that the concerned workman was appointed in the year 1962, prior to the nationalisation of the coal mines and was posted at Bararee Colliery and was designated as Attendance Clerk in Clerical Grade-II. He was promoted to Clerical Grade-I in the year 1983 as per the recommendation of the D.P.C. subject to the availability of post in the higher grade. So, he would not be promoted due to non-availability of post in higher grade. The management, however, jointly with the Trade Union, took a decision at JBCCI level that all such employees who were stagnating for more than 10 years in the same grade/category, they would be upgraded to the next higher grade under the provision of S.L.U. Accordingly, the concerned workman was upgraded and placed in Special Grade (Clerk) w.e.f. 1-7-1993 and performing the job of Attendance Clerk. As per the recommendation of the D.P.C. the concerned workman cannot be considered for promotion since presently there is no post in higher grade. It has been stated that his demand cannot be considered and it should be rejected.

8. In this respect the statement of WW-1, Ajit Kumar Singh, is very much material. He has stated in cross-examination at page 2 that this industrial dispute was raised on my behalf by the sponsoring union, namely, Dhanbad Colliery Karmachari Sangh. The said union has not authorised any-one to represent this case on its behalf. It is true that the written statement has not been filed on behalf of the sponsoring union. In this respect the management's counsel argued that when Dhanbad Colliery Karmachari Sangh has not authorised any person to represent any case, nobody can represent on behalf of the union against law. There is force on the argument that

when Dhanbad Colliery Karmachari Sangh has not authorised any person to represent, the concerned workman cannot represent the case by engaging counsel.

Again WW-1 at page 2 stated that it is true that the written statement has not been filed on behalf of the sponsoring union I have not filed any petition in this case for impleading me as a party. I have filed the written statement under my own signature and I have engaged an Advocate to represent my case. In the written statement neither the concerned workman has moved application for making party in the above reference and he himself has engaged Advocate.

WW-1 in cross-examination at page 2 has stated that it is true that in the year 1971 the concerned colliery was taken over and in the year 1972 it was nationalised. I do not know whether on the appointed day at the time of nationalisation in the year 1972 whosoever was under a particular category from before was placed in the same. It is true that in the year 1983 I was upgraded and I started getting the scale of Grade-I. Presently I am getting the pay scale of Special Grade. In the year 1966 when I was not granted promotion, I had not filed any case against the erstwhile owner. Likewise in the year 1971 also upon being denied the promotion I had not filed any case against the management. In the year 1977 also I had not filed any case against the management when I was not granted promotion.

In this respect the management argued that the dispute was raised in the year 1997 at the very belated stage though he should have raised the matter in year 1977. The matter raised after about 20 years seems to be an afterthought. Moreover, the concerned workman had not given any representation to the management for his promotion till this reference in the year 1997.

As per statement of WW-1 it shows that he is getting pay scale of Special Grade. No document has been filed on behalf of the concerned workman which may show that he was entitled for promotion in Office Supdt. in Tech. & Supervisory Grade-I from 1977.

9. The management's witness MW-1 is very important who has stated that the concerned workman started his service as Attendant Clerk. He worked in the pit of the colliery till his superannuation. He was promoted to Clerk Gr.-I in the year 1983. It has also been stated that when a workman does not get promotion due to non-availability of vacancy then he is given S.L.U. when a workman is given the benefit of S.L.U. then he is made payment of higher grade, and the concerned workman was never asked to work as office Superintendent.

Considering the above facts and circumstances, it is held that the concerned workman is not entitled for promotion in Clerk Grade 'A' in the year 1966, and Clerk Special/Sr. Clerk in 1971 and Office Superintendent in Tech. & Supervisory Gr. 'A' from 1977.

10. Accordingly, I render the following award :—

The demand by the Union for promotion by the management of Shri A.K. Singh in Clerk Grade-A in the year 1966, in Clerk Special/Sr. Clerk in 1971 and as O.S. in Tech. & Supervisory Grade-A from 1977 is not justified and hence the concerned workman is not entitled to any relief.

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1404.——औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, धनबाद के पंचाट (संदर्भ संख्या 171/01) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-20012/203/2001-आई आर (सी-1)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1404.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 171/01) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 5-5-2010.

[No. L-20012/203/2001-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 171 of 2001

Parties : Employers in relation to the management of Salanpur Colliery of M/s. B.C.C.Ltd.

AND

Their Workmen

PRESENT:

Shri H.M. Singh, Presiding Officer

Appearances:

For the Employers : Shri R.N. Ganguly,
Advocate

For the Workman : Shri D. Mukherjee,
Advocate

State : Jharkhand

Industry : Coal

Dated : the 20th April, 2010

AWARD

By Order No. L-20012/203/2001-IR (Coal-I) dated 11-7-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand by the Union for providing employment to Smt. Kamo Devi, divorced daughter of late Mishri Bhua under para 9.4.3 of NCWA from the management of Salanpur Colliery of M/s. BCCL is justified? If so, to what relief the said Smt. Kamo Devi is entitled?”

2. Written statement has been filed on behalf of the concerned workman stating that Mishri Bhua had been working as permanent miner/loader at Salanpur Colliery since 15-1-73. He was declared medically unfit by the Company's Medical Board on 6-3-89 and on the basis of Medical Board's report his services were terminated. Mishri Bhua died on 4-1-94 leaving behind his only dependent daughter, namely, Smt. Kamo Devi. The wife of late Mishri Bhua had died on 19-9-93. The husband of Smt. Kamo Devi had divorced her and she is leading life on begging due to inhuman and illegal act of the management. As per provision of NCWA the dependent of medically unfit employee is entitled for employment. In pursuance of the aforesaid provision the concerned daughter of late Bhua represented before the management for providing her employment and as per advice of the management she had completed all the formalities required for dependent employment, but unfortunately she was not provided employment. Thereafter an industrial dispute was raised before the A.L.C.(C), Dhanbad which ended in failure and on the basis of failure report the Govt. of India, Ministry of Labour, referred the dispute for adjudication to this Tribunal. The demand of the union for providing employment to Smt. Kamo Devi, divorced daughter of late Mishri Bhua is legal and justified.

It has been prayed before this Tribunal to answer the reference in favour of the workman by directing the management to provide employment to Smt. Kamo Devi With retrospective effect with all arrear of wages.

3. The written statement has been filed by the management stating therein that the present reference is not legally maintainable as there is no relationship between the management and the concerned lady, Smt. Kamo Devi at any time and, as such, she has no right to raise any industrial dispute through any union. It has been submitted that the provisions of NCWAs can only be considered for providing compassionate employment to save a family of the workman who dies in harness during the prime of his life leaving no sufficient amount for survival of his family members. A married daughter is excluded from the list of dependents of a workman. She becomes the dependent of her husband and her father-in-law and mother-in-law. Therefore, in the list of dependents, a married daughter has not been included to be considered for employment as she is no longer a member of the family. As the concerned workman late Misri Bhua did not have any dependent at the time of his death, his wife having pre-deceased him and have no dependent son or unmarried daughter, the question of providing any employment to any daughter did not and cannot arise.

It has been prayed that the Hon'ble Tribunal be pleased to pass the award holding that the concerned lady is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned lady has produced herself as WW-1. Zerox copies of documents have been marked as Exts. W-1 to W-3 on waiving formal proof.

The management has produced MW-1, Manish Mishra.

6. The main argument advanced on behalf of the concerned workman is that Kamo Devi is dependent of her father, Mishri Bhua, who died in the year 1994. In the year 1987 late Mishri Bhua has given the name of Kamo Devi as his dependent in the service excerpt.

7. The learned counsel of the management argued that Mishri Bhua died in the year 1994 and the present application has been filed as dependent employment in the year 2000. If she was divorced in the year 1992 as per Exts. W-1 and W-2, she must have sent application immediately after her divorce, but she did not do so. The above divorce order has been passed by Civil Court in Title (Matrimonial) Suit No. 53 of 1991 on 24-3-92 and then her father should have applied for her employment, but the concerned workman has not applied for providing any job to his divorced daughter. Mishri Bhua died in the year 1994, but Kamo Devi applied for providing dependent employment in the year 2000. Regarding above divorce, WW-1, Kamo Devi stated in cross-examination that "I was married when I was child. During the life of my father my marriage had broken. I cannot say that in the year 1992

there was decree of divorce. When the management did not provide me employment, then I have raised this dispute." It only shows that the above divorce has been decreed on mutual consent by Kamo Devi only to get employment with the management on compassionate ground.

8. Learned counsel of the workman argued that there is a Bi-partite Settlement that employment must be given to the dependent of the deceased, but this settlement has not been filed which may show that the dependent of deceased employee has got employment on compassionate ground.

The workman referred 2007 (115) FLR 427 in which Hon'ble Supreme Court laid down that under Industrial Disputes Act Section 18(3) a settlement is binding on both the parties and continues to remain in force unless the same is altered, modified or substituted by another settlement.

The learned counsel of the workman also referred AIR 1940 Patna 683 in which Hon'ble High Court laid down that when witness is not cross-examined his evidence must be acceptd.

The learned counsel of the workman also referred 2000(85) FLR 174 in which Hon'ble Supreme Court laid down that when second wife and second marriage was in contravention under clause (1) of Section 5 of the Act and was a void marriage, such second wife cannot be described a widow of such employee, but their sons would be legitimate sons under Sec. 16 of the Act and would be entitled to equal shares alongwith first wife.

9. In the present reference it shows that the concerned lady, Kamo Devi, who was divorced, cannot demand for employment with the management under 9.4.3 of NCWA.

10. Accordingly, I render the following award —

The demand of the Union for providing employment to Smt. Damo Devi, divorced daughter of late Mishri Bhua under para 9.4.3 of NCWA from the management of Salanpur Colliery of M/s. BCCL is not justified and hence Smt. Kamo Devi is not entitled to any relief.

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 मई, 2010

को. आ. 1405.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व्हिकल फैब्री के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एल/आर/183/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-14012/9/94-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1405.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/183/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vehicle Factory and their workman, which was received by the Central Government on 5-5-2010.

[No. L-14012/9/94-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/183/95

Presiding Officer : Shri Mohd. Shakir Hasan

Assistant Secretary,
Council of Trade Union,
Telegraph Gate No. 3, 1123,
Wright Town, Jabalpur : Workman/Union

Versus

The General Manager,
Vehicle Factory,
Jabalpur : Management

AWARD

Passed on this 13th day of April, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L-14012/9/94-IR (DU) dated 27-10-95 dated has referred the following dispute for adjudication by this tribunal :

“Whether the action of the Manager, Vehicle Factory, Jabalpur vide order No. 99/PN/16506 dated 5-5-93 to impose a penalty of reduction in pay to the minimum grade of LDC from Rs. 1175 P.M. to Rs. 950 P.M. with commutative effect for a period of three years to Shri K.L. Rathore is justified. If no, to what relief the workman is entitled to?”

2. In this reference, the workman appeared but did not file any statement of claim. Lastly the then Tribunal proceeded ex-parte against the workman on 6-2-07.

3. The management appeared and filed written statement in the case. The case of the management, in

short, is that the workman committed misconduct on 8-11-1988 and was charge sheeted. On denial of his charge, a departmental enquiry was conducted but the Enquiry Officer after enquiry found the charges as not proved and submitted his report. The Disciplinary Authority drew dissenting finding. The workman was again asked show cause by the Disciplinary Authority with dissenting finding alongwith a copy of enquiry report. After receiving reply, the Disciplinary Authority examined the same and imposed a penalty of Reduction in pay to the minimum scale of grade of LDC vide order dated 5-5-93. Being aggrieved the workman preferred an appeal but the Appellate Authority upheld the penalty. It is submitted that the action of the management is justified.

4. In this case, the management has not adduced any evidence. It is submitted that there is no statement of claim of the workman and therefore there is no dispute before the Tribunal. This is a case of no evidence. Accordingly the reference is answered.

5. In the result, no dispute award is passed without any order to costs.

6. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1406.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.एस.एन. एल. के प्रबंधतात्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 153/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-42012/77/2003-आई आर (डीयू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1406.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 153/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BSNL and their workman, which was received by the Central Government on 5-5-2010.

[No. L-42012/77/2003-IR(DU)]
SURENDRA SINGH, Desk Officer

on any date fixed in the case nor filed any statement of claim duly signed by the workman. Therefore, from the behaviour of the workman it is quite clear that the workman is not interested in prosecution his case before the tribunal.

4. Therefore, the tribunal feels no hesitation in holding that the workman cannot be held entitled for any relief for want of pleading and proof. Accordingly, it is held that the action of the management as referred in the schedule of reference order is neither illegal nor unjust. Consequently, the workman cannot be held entitled for any relief and the reference is bound to be answered against the workman and in favour of the opposite party.

5. Reference is answered accordingly.

Dated 28-4-10

RAM PARKASH, Presiding Officer
नई दिल्ली, 5 मई, 2010

का. आ. 1408.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन एप्रीकल्चर रिसर्च इंस्टिट्यूट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 33/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-42012/143/98-आई आर (डीयू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/99) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Indian Agriculture Research Institute and their workman, which was received by the Central Government on 5-5-2010.

[No. L-42012/143/98-IR(DU)]

SURENDRA SINGH, Desk Officer
ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case I.D. No. 33/99

Shri Satpal S/o Shri Roop Chand, R/o Village Saidpura, PO Zarifa Farm, Tehsil and Distt. Karnal-132001 Applicant

Versus

The Head, Indian Agriculture Research Institute,
Karnal-132001 Respondent

APPEARANCES:

For the Workman : Shri S. K. Shegal

For the Management : Shri R. K. Sharma

AWARD

Passed on : 21-4-10

Government of India vide Notification No. L-42012/143/98-IR (DU), dated 4-2-1999 by exercising its powers under Section 10 of the Industrial Disputes Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of IARI, Karnal by not giving a chance to Shri Satpal S/o Shri Roop Chand, daily paid labourers for his engagement and re-engaging his juniors into employment is legal and justified ? If not, to what relief the workman is entitled ?”

After receiving the reference parties were informed. Parties appeared and filed their respective pleadings. On perusal of the pleadings of the workman it is evident that workman has prayed for his reinstatement on the same position on which was working at the time of his termination alongwith continuity in services and back wages. The workman has also prayed for the ancillary order or other relief which the workman is found to be entitled as per the claim of the workman. He was appointed as Baildar in the year 1985 and he worked upto 1990. His services were terminated without notice or one month wages in lieu of notice and without payment of retrenchment compensation. Subsequently, after termination of the services of the workman, management has filled about 50 vacancies without affording opportunity to the workman. 47 daily paid labourers were appointed as shown in list A which was wrongly prepared ignoring the workman. So many juniors to him were included in list A and they were provided with the work in violation of the Constitutional rights of the workman.

Management appeared and contested the claim of the workman by filing written statement. Preliminary objections were raised that Indian Council and Agricultural Research, New Delhi is a society registered under the Societies Registration Act, 1860 and as per the bye laws of the society ICAR is a research institute having no individual activity and as such is not covered within the meaning of Section 2S of Industrial Disputes Act, 1947. On merits, it is contended by the management that workman has not completed 240 days of work in the preceding year from the date of his termination. He has worked few days in every year from 1985 to 88. No rights as such have accrued to the workman for raising the industrial dispute. It is admitted by the management that in the year 1993, it was decided by the director, IARI, New Delhi to prepare the seniority list of DPL as per the initial date of

engagement of casual labourers. Therefore, an advertisement was made in the newspaper through DAVP vide letter No. 4-1/93-94/2827 dated 27-7-93 and notice was issued to inform the general public that who have ever worked with the respondent may apply for re-engagement to the respondents by 20-8-93. In pursuance of aforesaid notice/advertisement 54 persons applied by due date and according to need 47 daily paid workers were engaged in the year 1996. The workman never reported to the respondent as per aforesaid advertisement/notice and as such no right of the workman has been infringed or violated. Parties were afforded the opportunity for adducing evidence. Cross-examination of the workman was partly recorded on 2-12-98. Thereafter the management could not turn up and the evidence of the management was closed on 17-11-2009. Adequate, reasonable and proper opportunity by this Tribunal was given to the management to appear and peruse his matter but the management has failed, accordingly, after hearing the arguments of workman, field was reserved for award.

It is also important to mention that six industrial disputes of similar and same nature were adjudicated and decided by this Tribunal on 2-12-2008. So this reference shall also be answered and adjudicated in the light of the award passed by this Tribunal on 2-12-2008 in six industrial disputes to prevent in divergence in judicial decision. The facts and circumstances in this reference are same as were in six industrial dispute decided on 2-12-2008.

The management has raised the preliminary objection that management of respondent is not an industry. I have heard learned counsel for the workman on this issue and perused the written arguments place by him and other materials on record.

The term 'industry' has been defined in Section 2(J) of the Industrial Disputes Act, 1947 to mean any business, trade, undertaking, manufacture or calling or employers and includes any calling, services, employment, handicraft, or industrial occupation or avocation of workmen."

In *Bangalore Water Supply case (supra)*, 7 Judges Bench of Hon'ble the Apex Court has defined the word industry. As per the above mentioned verdict of the Apex Court, term 'industry' has been defined in sub-section 2(j) in a vide important as :

(a) Where there is (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical), and (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of materials things or services geared to celestial bliss), *prima facie*, there is an industry in the enterprise.

- (b) Absence of profit, motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.
- (c) The true focus in functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.
- (d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Thus, the test (especially triple test) referred by the Hon'ble the Apex Court in *Bangalore Water Supply case (supra)* are necessary to qualify any institution to be an industry.

Regarding the sovereign functions, Hon'ble the Apex Court in *Bangalore Water Supply case (supra)* held that sovereign functions strictly understood alone qualified exemption not the welfare activities or economic adventures undertaking by Government or statutory bodies. Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severgal then they can be consider to come within Section 2(j) of the Act, in the definition of 'industry'.

Thus, the decision whether the particular organization is an industry or not is to be taken by the work done and business carried on by it, which absolutely depends on the facts and circumstances of each case. Admittedly, as it is clear from the rules and regulations and memorandum of association of the ICAR, the main works of the management are as follows :

- (a) To undertake, aid, promote and co-ordinate agricultural and animal husbandry education, research and its application in practice, development and marketing in India and its Protectorates and any other areas in or in relation to which the Government of India has and exercise any jurisdiction by treaty, agreement, grant, usage, sufferance or other lawful means by all means calculated to increase secure its adopting in every day practice.
- (b) To act as a clearing house of information not only in regard to research but also in regard to agricultural and veterinary matters generally.
- (c) For purposes of the society to draw and accept and make and endorse discount and negotiate Government of India and other promissory notices, bills of exchange, cheques or other negotiable instruments.
- (d) To invest the funds of, or money entrusted to, the society upon such securities or in such manner as may from time to time be determined

- by the governing body and from time to time to sell or transpose such investments.
- (e) To purchase, take on lease, accept as a gift or otherwise acquire, any land or building, wherever situate in India which may be necessary or convenient for the society.
 - (f) To construct or alter any building which may be necessary for the society.
 - (g) To sell, lease, exchange and otherwise transfer all or any portion of the properties of the society.
 - (h) To establish and maintain a research and reference library in pursuance of the objects of the society with reading and writing rooms and to furnish the same with books, reviews, magazines, newspapers and other publications.
 - (i) To do all other things as the society may consider necessary, incidental or conducive to the attainment of the above objects.

On the basis of the activities carried on by the management of respondent, it is argued that the activities of the management are similar to the physical research laboratory and the physical research laboratory has been held not to be an 'industry' *Physical Research Laboratory Vs. KG Sharma, 1997 (3) RSJ 215*.

I have gone through the entire materials on record, the activities as mentioned above carried on by the management of ICAR are not similar that of the Physical Research Laboratory. The management has also supplied the copies of mission, mandate and objectives, which also contain the detailed description of the activities carried on by ICAR. On the basis of the activities carried on by the ICAR, I am of the view that the respondent is not carrying on only the research work, which comes under the exemption of term industry, as the sovereign functions. As per the law laid down by Hon'ble the Apex Court in *Bangalore Water Supply Case (supra)* even in departments discharging sovereign functions, if there are units which are industries and they are substantially severgal, it may qualify for the industry. Thus, on the basis of the activities carried on and work done by the management of respondent, I am of the view that the respondent ICAR is the 'industry'.

From the nature of reference, it is clear that this Tribunal has not been entrusted by the Central Government to adjudicate the matter of appointment and retrenchment of all the workman. The Tribunal is entrusted only to adjudicate, whether any opportunity was provided to the workmen while preparing the seniority list for the purpose of providing work amongst the persons who had ever worked with the department? The duty of this Tribunal is further extended to adjudicate on violation of right of the working relating to priority of work.

It is the contention of the management that the policy regarding the maintenance of seniority list was advertised in the newspapers. No newspaper, containing the advertisement was filed by the management. The management failed to mention the names of newspapers and dates of publication in the newspapers in its pleadings. No evidence was adduced/filed in spite of adequate opportunity afforded to the management.

It was a special fact to be proved by the management that the workman, whose claim is being adjudicate in the reference, was served proper and adequate notice for preparing the seniority list so he could have applied for the work. The management has utterly failed to prove that any advertisement was published in any of the newspapers as alleged. The management has also failed to prove that notice by registered post or otherwise was send to the workman before preparing and maintaining the seniority list in compliance of the policy adopted by the management. The language of model advertisement (specimen) which is on record, shows that it was pasted on the notice board and not other action was taken by the management regarding the service of notice upon the persons who had ever worked with the management for the purpose of maintaining seniority. It was the duty of the respondent of management to inform to all the persons who had ever worked with the department by all possible sources to ensure the proper and effective notice. Even if, one person was left unnoticed, it would have amounted to an infringement of rights of natural justice. At the cost of repetition, no evidence was adduced/filed by the management.

It was a good move by the management for maintaining the seniority for the betterment of the workman, but it was implemented in a wrong manner.

After maintaining the seniority, few persons, raised the industrial dispute that they have not been informed properly before maintaining seniority. It is the admitted case that during the conciliation proceedings a settlement was made between the management and the person whose name was not included in the previous list. It was decided that a separate seniority list will be maintained by the department and according to that seniority the work will be provided to the persons. But the management was satisfied by maintaining the second seniority list without fulfilling another condition for providing the job to any of the workman from the second list. The seniority list prepared by the management without proper information to all the persons contained the name of certain persons who are juniors to the workmen in violation of the right of priority on job protected under the Industrial Disputes Act.

Unfortunately, this Tribunal also take abnormal time of 12 years for disposal of this reference and during these 12 years the management has not provided the work to

any of the persons from the second list. Thus, the preparation and maintenance of second list was just a face wash by the management without any intention to provide the work to any of the persons from second list. Accordingly, the management has violated the right of priority of work protected by Industrial Disputes Act, of the workman because there was no proper notice to the workman when the first list was prepared and the management has not provided the work to any of the workman from the second list. There is no weight in the contention of the management that the workman had not applied as per the advertisement because there was no notice of the alleged advertisement to the workman and management prepared the previous list without proper circulation of the scheme amongst the persons who had ever worked with the management.

Another question before the Tribunal is how the violation of the right of the workman should be remedied? In my opinion, the remedy lies in the direction that management should prepare only one list and if any of the workman from the second list is found senior to the workman who has provided the work from list one, they should be provided the work immediately. The act of management by maintaining a second list with assurance to provide the work to the workman, is an indirect admission of latches in publication of advertisement of the scheme and service of notice upon them. Accordingly, the management is directed to maintain one list at the place of two, and, if workman is found senior to the workman who is working with the management, the management is further directed to reinstate the workman without the back wages within one month from the date of publication of this award. The reference is disposed of accordingly. Let Central Government be approached for publication of award and thereafter, file be cosigned to record room.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, भुवनेश्वर के पंचाट (संदर्भ संख्या 3/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-12012/170/2007-आई आर (बी-1)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 3/2008) of the Central Government Industrial Tribunal-cum-Labour

Court-2, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 5-5-2010.

[No. L-12012/170/2007-IR(B-1)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri J. Srivastava, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 3/2008

Date of Passing Order—23rd April, 2010

BETWEEN:

1. The Management of the State Bank of India, through General Manager, LHO, Pt. J.L.N. Marg, Orissa, Bhubaneswar-751002
2. The Branch Manager, State Bank of India, Phulbani Branch, At./P.O. Phulbani, Distt. Phulbani, Orissa

... 1st Party-Management

AND

Their Workman Shri Saraswat Diggal,
At. PO Pakana Goan, Distt. Kandhamal,
Orissa, Phulbani

... 2nd Party-Workman

APPEARANCES:

None : For the 1st Party—Management Nos. 1 & 2

None : For the 2nd Party—Workman

ORDER

The Government of India in the Ministry of Labour & Employment, New Delhi vide its letter No. L-12012/170/2007-IR (B-1), dated 12-11-2007 in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred the following dispute in relation to the Management of State Bank of India and their workman for adjudication to this Tribunal :

“Whether the action of the management of Chief General Manager, State Bank of India, Orissa Circle in terminating the services of Shri Saraswat

Diggal, ex-temporary messenger w.e.f. 31-3-1997 is justified ? If not, what relief the workman concerned is entitled to ?”

2. The Government while referring the dispute to this Tribunal directed the parties raising the dispute to file the statement of claim with relevant documents and list of witnesses with the Tribunal within fifteen days from the date of receipt of the order of reference. When the claim statement was not filed and the parties did not appear, notices were issued to them. Subsequently one Shri Pramod Kumar Digal filed a petition on 8-7-2008 claiming to be the son of the workman (now deceased) and prayed for substitution of legal heir. But till date none from the side of the 2nd Party-workman or his legal representative appeared before the Court and pressed the said petition dated 8-7-2008.

3. Since then the matter has been hanging for consideration of the petition of Sri Pramod Kumar Digal, alleged son of the 2nd Party-Workman. After filing the petition he even stopped coming to the Court and persisting his petition. A notice was also issued to the address of the 2nd Party—Workman on 6-1-2010 but the said notice returned with the remark “addressee expired”. It is noteworthy that this reference was made to this Court on 12-11-2007 when the workman was dead as is revealed from the photocopy of death certificate filed by Shri Pramod Kumar Digal with his petition dated 8-7-2008. The death certificate mentions the date of death as 19-9-2007. As such this reference was not competent to be made on 12-11-2007. Moreover, for want of claim statement or pleadings of the parties on record no adjudication of so called dispute can take place and the action of the Management cannot be examined and adjudged as bad or justified in terminating the services of the workman. Therefore, the reference is liable to be returned to the Government for necessary action at their end. The reference is as such returned to the Government.

4. I order accordingly.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1410.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 95/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हआ था।

[संख्या एल-12012/254/2002-आई आर (बी-I)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1410.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 95/2003) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Patiala and their workmen, which was received by the Central Government on 5-5-2010.

[No. L-12012/254/2002-IR(B-I)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case I.D. No. 95/2003

Smt. Lata,
W/o Shri Madan Lal,
R/o Balmiki Basti,
Bari Market,
Model Town,
Karnal-132 001

Versus

The Branch Manager,
State Bank of Patiala,
Sector-6,
Karnal-132 002

APPEARANCES

For the Workman : Shri Varinder Kumar

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 24-4-2010

Government of India vide notification No. L-12012/254/2002-IR (B-I), dated 28-3-2003 by exercising its powers under Section 10 of the Industrial Disputes Act (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of State Bank of Patiala in terminating the services of Smt. Lata W/o Shri Madan Lal, Sweeper w.e.f. 13-10-2001 is justified ? If not, what relief the workman is entitled ?”

After receiving the reference parties were informed. Parties appeared and filed their respective pleadings. It is the contention of the workman that she was engaged as daily waged sweeper w.e.f. 19-3-97 and worked as such up to 12-10-01. Her services were terminated on 13-10-2001 without assigning any reasons. No notice or one month wages in lieu of notice and retrenchment compensation was paid to him before terminating her services. It has also been the contention of the workman that after termination of her services one Shri Subhash S/o Shri Ram Singh was appointed against the provisions of the Act without affording him the opportunity to work. On the basis of the above contention the workman Smt. Lata has prayed for setting aside the termination order and for consequential order for reinstatement of the services with back wages.

The management of respondent appeared and admitted that the workman was working as daily waged worker at the rate of Rs. 80 per day on contract basis. She was working for one and half hour a day and the contractual amount of remuneration was made to him by vouchers. Shri Hari Singh was appointed permanently by the bank after the termination of the services of the workman. No notice or retrenchment compensation was required to be given because the workman was appointed on contract basis.

Parties were afforded the opportunity of being heard and for adducing evidence.

From perusal of the pleadings of the parties, it is evident that the management has not challenged the working of the workman with the management as alleged by the workman but challenged the nature of appointment. The management has contended that nature of appointment was contractual. There is no contract on record. The management has failed to file even iota of evidence to prove that workman was working with the management on any contract. The cumulative effect of pleadings and evidence is that workman was working with the management on daily wages. It is admitted by the management that payment was made good weekly by vouchers. The period which the workman has contended to work has not been challenged. At the cost of the repetition the management has only challenged the nature of appointment. As per the contention of the management the workman being on contractual appointment is not entitled for any relief. The management utterly failed to prove any contract. The result is that workman was working under the direct administrative control of the management. The period for which the management has worked is not denied. Meaning thereby, the workman has completed 240 days of work in the preceding year from the date of his termination. No notice, one month wages in lieu of notice and retrenchment compensation was paid to the workman before her termination from the services. It is also admitted by the management that Shri Suresh Kumar has been

appointed on regular basis. But the management failed to provide the details of Shri Suresh Kumar whether he was initially appointed on regular basis or firstly he was appointed as daily waged worker. The management has contended that payment was made good by vouchers but no voucher has been filed by the management nor has shown any reason for non-filing the same.

The case being so that most of the facts have been admitted by the management except the nature of appointment to which he has utterly failed to prove.

The management has also relied a law laid down by Supreme Court in 2006 (2) SSC 716 Madhya Pradesh, State Agro-Industrial Development Corporation Versus S. C. Pandey. In this case Hon'ble the Apex Court has held that a daily waged worker has no right to post and cannot seek regularization of services. It is true that a daily waged worker has no right to post and cannot claim for regularization, but the issue before this Tribunal in this reference is not regarding the regularization of the services of the workman. The issue is regarding the protection of right to work and the legality of the termination.

The workman has contended that she was illegally terminated. It has also been proved before this Tribunal that workman was illegally terminated against the provisions of the Act. The provisions of the Act never barred the termination of any workman but the termination of any workman is regulated by the provisions of the Act. The provisions of the Act regulated the termination in the sense that termination should be succeeded by a notice or one month wages in lieu of notice and by payment of other lawful terminal dues. If it is not done it will make the termination illegal. One more right of the workman under the provisions of the Act is protected and that is right to priority of work. Even after the lawful retrenchment, if the services of any daily waged worker are required priority shall be given to the retrenches. Both of the rights of the workman were violated in this case. It is true that workman by cogent evidence must prove that he has completed 240 days of work and was terminated illegally. Her period of working is admitted to the management and it is also admitted that no notice, one month wages in lieu of notice or retrenchment compensation was paid. One Shri Suresh Kumar was appointed after the termination of the services of Smt. Lata to which the management claims to be the regular appointment. Management failed to prove that Shri Suresh Kumar was initially appointed as regular Safai-Karamchari. If Suresh Kumar was appointed firstly on daily wages and thereafter, as regular Safai-Karamchari it was violation of the provisions of section 25 H of the Act. Accordingly, the termination of the workman from the services on both of the account was illegal and void.

Whenever, the termination of any workman is declared to be illegal and void, there are two possible remedies available to the workman. The first remedy is

reinstatement of the workman into the services on the same position she was initially appointed and working with the bank. The second alternative remedy is a reasonable compensation. It is the settled law of service jurisprudence that priority should be given for reinstatement of the workman into the service and in exceptional cases, the Tribunal should remedied the workman with the compensation. When it is before the Tribunal that work is not available with the management or no post is lying vacant, the workman should be reasonably compensated. On going through entire materials on record, it is clear that no work at present is available with the bank. Accordingly, reasonable compensation is the appropriate remedy for the workman. The compensation should be awarded on the basis of reasonable criteria. The facts to be considered as a reasonable criteria are the wages which the workman was getting at the time of the termination, one month wages in lieu of notice, lawful terminal dues, interest thereon, depreciation in the money, inflation and index cost factor. Considering the above factors and length of service of the workman, I am of the view that Rs. 1,00,000 (one lakh only) will be a reasonable compensation to meets the ends of justice. Considering all above factors and the period the workman has worked with the management and the wages she withdraw at the time of her retrenchment Rs. 1,00,000 (one lakh only) in my view is a reasonable compensation. Accordingly, the management is directed to pay/deposited the above mentioned compensation within one month from the date of publication of the award. If the management pays/deposits the amount within one month from the date of publication of the award, no interest need to be paid, failing which the workman will also be entitled for an interest at the rate of 8 per cent per annum on the amount of compensation from the date of filing the statement of claim till final payment. Accordingly, the reference is answered. Let Central Government be approached for publication of award and thereafter, file be consigned to record room.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच अनुवंश में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 25/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[संख्या एल-12012/208/1998-आई आर (बी-1)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/1999) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of State Bank of Patiala and their workman, which was received by the Central Government on 5-5-2010.

[No. L-12012/208/1998-IR(B-I)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case I.D. No. 25/99

Shri H. S. Sidhu,
R/o H. No. B-3/2325,
near City Police Station,
Rajpura Town,
Patiala.

Applicant

Versus

State Bank of Patiala,
The Asstt. General Manager-I (P),
Zonal Office,
Leela Bhawan,
Patiala-147 001.

Respondent

APPEARANCES

For the Workman : Shri G. S. Bal.

For the Management : Shri N. K. Zakhmi.

AWARD

Passed on : 24-4-2010

Government of India vide notification No. L-12012/208/98-IR (B-I), dated 7-1-1999 by exercising its powers under Section 10 of the Industrial Disputes Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of State Bank of Patiala, Leela Bhawan, Patiala in awarding punishment of compulsory retirement from service to Shri H. S. Sidhu is just and legal ? If not to what relief the concerned workman is entitled to and from which date ?”

After receiving the reference parties were informed. Parties appeared and filed their respective pleadings. On perusal of the pleadings of the parties, it is evident that

the main dispute between the parties is regarding the punishment of removal of workman from the services on the basis of enquiry report given by the enquiry officer after conducting the enquiry on two charges namely fraudulently withdrawing the amount of Rs. 1500 from the saving bank account of Shri Beant Singh and claiming the LTC benefits for the mother of the workman in spite of the fact that mother was getting the pension at the rate of Rs. 750 per month.

The workman has contended that enquiry was not properly conducted and without perusing the evidence, the enquiry officer has submitted his report proving both of the charges against the workman. The management has alleged contrarily that adequate and proper opportunity of being heard was afforded to the workman and there has been no violation of any rules or principle of natural justice while conducting the enquiry by enquiry officer and while awarding the punishment by the disciplinary authority.

Parties were afforded the opportunity for adducing evidence. The workman Shri H. S. Sidhu filed his affidavit in support of his claim and he was cross-examined by learned counsel for the management on 27-8-2009. Shri Beant Singh has also filed his affidavit and he was cross-examined as WW2 by learned counsel for the management on 27-8-09. Affidavit was also filed by the management but the witness who filed the affidavit on behalf of the management was not produced for cross-examined. Accordingly vide order dated 11-10-09, this Tribunal close the evidence of the management with specific order that affidavit filed by the management shall not be considered because the witness who filed the affidavit was not subjected to cross-examination. The file was fixed for arguments. Thereafter, management turned up and opportunity of being heard was also afforded to the management. I have heard the parties at length. The main contention of learned counsel for the workman is that total amount which the workman claimed for his LTC including for his mother was Rs. 5,500 and the share of the mother was approximately Rs. 1,654. Learned counsel has argued that irrespective of the rules which may otherwise it is not only the economic position of the mother which has to be considered for the purpose of LTC benefits but it is social economic physical and other dependency of the mother on the son which has to be considered for the purpose of claim of LTC. For this contention learned counsel for the workman has relied upon the law laid down Hon'ble the Apex Court in 1998 (1) RSJ 329 State Bank of Madhya Pradesh Versus M. P. Ojha and others. On another issue regarding fraudulently withdraw of Rs. 1500 from the account of one Shri Beant Singh learned counsel has argued that management has utterly failed to prove that workman has withdraw the amount from the account of Shri Beant Singh. Learned counsel has specifically argued that Beant Singh was not summoned by the enquiry officer. Beant Singh name was given by the workman to the

enquiry officer as a defence witness. The enquiry officer has not ensured the presence of Beant Singh and without recording the evidence of Beant Singh, has submitted his report. Beant Singh appeared before the appellate authority but appellate authority has not as well given any thought to the statement of Beant Singh. Before this very Tribunal, as per the contention of the learned counsel for the workman, Shri Beant Singh has denied for withdrawal of Rs. 1,500 fraudulently by the workman. Under such circumstances, the findings of the enquiry officer on charge No. 1 relating to fraudulently withdrawal of Rs. 1500 from the account of Beant Singh has no legs to stand.

Learned counsel for the management has argued otherwise. As per the arguments of learned counsel for the management Shri N. K. Zakhmi, proper and adequate opportunity of being heard was afforded to the workman while conducting the enquiry. Handwriting expert has given his findings regarding the signatures on the withdrawal form for Rs. 1500 each and those signatures are similar to the signatures of the workman. Regarding statement of Beant Singh, learned counsel for the management has argued that workman failed to produce Shri Beant Singh before the enquiry officer and on his failure to do so, the enquiry officer rightly closed the proceedings of enquiry and proceeded further. There is no illegality in conducting the enquiry and the enquiry officer has rightly given the enquiry report. On perusal of the enquiry report, considering the gravity of the charge, the disciplinary authority has rightly punished the workman with the punishment of compulsory retirement from the services.

This Tribunal has look into the matter whether the enquiry was conducted fairly as per the rules prevailing in the department. On going through the entire materials on record including the enquiry proceedings enquiry report and the report of the disciplinary proceedings, I am of the view that enquiry was conducted in a proper manner provided in the Rules. All possible opportunity of being heard was afforded to the workman by enquiry officer and the disciplinary authority. The workman in his evidence has also admitted that he received the charge sheet and he replied the same. He appeared before the enquiry officer on all the dates fixed for the hearing of enquiry and he cross-examined the witness of the management. He also adduced his evidence in defence. The only figure raised by the workman for enquiry proceedings is that the statement of Shri Beant Singh from whose account Rs. 1500 was allegedly to be withdrawn by the workman was not recorded. While taking the decision on the fairness of enquiry, I am of the view that jurisdiction of this Tribunal lies what the enquiry officer has done. If the enquiry officer has failed in exercising his lawful duty, it shall in my opinion, come in his decision making. The Tribunal has to see whether the evidence available to the enquiry officer was sufficient to prove the charge and not beyond it. If a

particular witness was not summoned it should not be fattle if the evidence recorded by the enquiry officer was sufficient to prove the misconduct for which the workman was charged.

Accordingly, I am of the view that enquiry was fairly conducted and there has been no violation of principle of natural justice while conducting the enquiry.

There is a difference in conducting the enquiry in a fair and proper way as per the rules applicable to the parties and the decision making of the enquiry officer. No doubt, the jurisdiction of this Tribunal for perusing the enquiry report is very limited. This Tribunal cannot act as the Court of appeal while going through the decision making of the enquiry officer as well. But it is the settled principle of service jurisprudence that this Tribunal can look into any perversity committed by any enquiry officer while reaching to the conclusion on proving all the charges. Meaning thereby, if the evidence has not been properly perused by the enquiry office or it has been perused in the wrong way this Tribunal has got jurisdiction to entertain the issue for discussion. The term perversity means for the purpose of this reference any illegality in decision making. If the enquiry officer has not perused the evidence properly or has relied upon that evidence which was not on record, it will amount to illegality committed by the enquiry officer.

Though, this Tribunal has had that enquiry was conducted in a fair and proper manner and there has been no violation of any rules of principle of natural justice, instead of it, this Tribunal has got jurisdiction to see the decision making of the enquiry officer whether it suffered with any perversity ?

I am taking both of the charges one by one on decision making. So far as the charge relating to claiming of LTC claim for the mother while she was getting Rs. 750 per month as a pension is concern this is well proved before this Tribunal and before the enquiry officer that the mother was getting the pension at the time the workman has claimed LTC for her mother. All the documents which were placed before the enquiry officer, and thereafter, before this tribunal reveals clearly that mother was getting the pension more than the prescribed limit by rules. Rules of the bank prescribed that if a person is getting the pension of more than Rs. 500 that person cannot be the dependent of the bank employee. Undoubtedly mother was getting the pension more than Rs. 500. This clause as interpreted by Hon'ble the Apex Court in the case of State of Madhya Pradesh Versus M. P. Ojha (*supra*) will be binding on this Tribunal as doctrine of judicial precedent. In this very judgment Hon'ble the Apex Court has interpreted the term wholly dependent. Hon'ble the Apex Court has categorically laid down that it is not only the financial position, meaning thereby, pension but other factors such as age, physical condition and social status which are to

be considered for the term wholly dependent. In para 14 of the judgment Hon'ble the Apex Court has held as under :

"The expression "wholly dependent" is not a term of art. It has to be given its due meaning with reference to the rules in which it appears. We need not make any attempt to define the expression "wholly dependent" to be applicable to all cases in all circumstances. We also need not look into other provisions of law where such expression is defined. That would likely to lead to results which the relevant Rules would not have contemplated. The expression "wholly dependent" has to be understood in the context in which it is used keeping in view the object of the particular rules where it is contained. We cannot curtail the meaning of wholly dependent by reading into this the definition as given in SR 8 which has been reproduced above. Further, the expression "wholly dependent" as appearing in the definition of family as given in Medical Rules cannot be confined to mere financial dependence. Ordinarily dependence means financial dependence but for a member of family it would mean other support may be physical as well. To be "wholly dependent" would therefore include both financial and physical dependence. If support required is physical and a member of the family is otherwise financially should be may not necessarily be wholly dependent. Here the father was 70 years of age and was sick and it could not be said that he was not wholly dependent on his son. Son has to look after him in his old age. Even otherwise by getting a pension of Rs. 414 per month which by any standard is a paltry amount it could not be said that of being a retired Government servant is immaterial if his case falls within the Medical Rules being a member of the family of his son and wholly dependent on him, A flexible approach has to be adopted in interpreting and applying the rules in a case like the present one. There is no dispute that the son took his father to Bombay for treatment for his serious ailment after getting due permission from the competent authority. It was submit before us that the father being a retired government servant could himself get sanction for treatment outside the State as a special case from the competent authority. It is not necessary for us to look into this aspect of the matter as we are satisfied that under the relevant Medical Rules, the father was member of the family of his son and was wholly dependent on him and the second respondent was thus fully entitled to reimbursement for the expenses incurred on the treatment of his father and other traveling expenses.

On the basis of the above observation, of Hon'ble the Apex Court, I am of the view that the rules of the department may be otherwise but the law laid down by

Hon'ble the Apex Court while interpreting the term wholly dependent will be applicable on this Tribunal and it is a legal duty of this Tribunal to abide by law laid down by the Apex Court. On perusal of the evidence on record, it is clearly established that mother was dependent on him. She was old and infirm and had no other income than Rs. 750 as pension. The law cannot manage to be static. The rules were framed by the department much earlier where the ceiling of Rs. 500 was maintained. I present time this ceiling of Rs. 500 has lost its importance and that is the reason Hon'ble the Apex Court to make a law sufficient to cadre the need of the society has interpreted the term wholly dependent. As stated earlier, it is well established that physically socially and mentally the mother was dependent on the workman but she was getting pension Rs. 750 per month. Accordingly, on the basis of the law laid down by Hon'ble the Apex Court, I am of the view that enquiry officer has committed the error while holding this as misconduct and the disciplinary authority has wrongly awarded the punishment for compulsory retirement of the workman from the services on this charge.

So far as the second charge is concerned the decision making of the enquiry officer has also been suffered with perversity because there was no evidence before the enquiry officer to prove this charge.

I have reached to the conclusion regarding the perversity in decision making of the enquiry officer on the following grounds :

- (1) The enquiry report has been given by the enquiry officer on presumptions. The entire evidence on record, if taken into consideration, make it clear that the charge of fraudulently withdrawing of Rs. 1500 from account of Shri Beant Singh has not been proved and established.
- (2) It is the duty of the management to prove the charge against the workman. It is true that burden of proving the charge is not same as that in the criminal case but there should be some cogent evidence before the enquiry officer to reach to the conclusion. No complaint by Shri Beant Singh was ever lodged regarding fraudulently withdrawing of Rs. 1500 from his saving bank account.
- (3) Enquiry officer has relied upon the statement of TPS Sohi PW1, who has not given the statement that signatures on both of the vouchers were the signature of the workman. He has given the evidence regarding the suspicious signatures on both of the withdrawal forms. PW2 has also deposed like this that the signatures on both of the withdrawal forms are doubtful. Thus, PW1 and

PW2 have just shown the doubts and such doubtful evidence cannot be taken into consideration for proving the charge.

- (4) The main witness as per the contention of learned counsel for the management is PW3, Shri S. K. Puri, the handwriting expert. I have gone through the evidence recorded by the enquiry officer of Shri S. K. Puri PW3. The cumulative effect is that even the handwriting expert has not categorically given the findings that signatures on both of the withdrawal forms are the signatures of the workman.
- (5) It was the duty of the management to summon Shri Beant Singh to prove the charge against the workman. Shri Beant Singh was a material witness who could have proved the charges but the reasons known to the enquiry officer Shri Beant Singh was not summoned for recording the evidence. Surprisingly, the workman requested the enquiry officer to record the statement of Shri Beant Singh and to summon him. Even in the enquiry proceeding, once the workman has given the name of the witness, it was the duty of the enquiry officer to ensure the presence of the witness there is no iota of evidence that enquiry officer has taken any steps for recording the evidence of Shri Beant Singh even as defence witness. Thus, there is no occasion for this Tribunal to accept the contention of the management that workman could have produced this person before enquiry officer. It is the duty of the management to prove the charge against the workman and this duty and burden cannot be shifted on the soldiers of the common man, the workman.
- (6) Statement of DW1 who is the Deputy Manager of the Bank has been ignored by the enquiry officer on the ground that he is the employee of the bank. This is not the ground for denying the relevancy and admissibility

of evidence of any witness. PW1 and PW2 whose statements the enquiry officer has relied upon are also the employees/officers of the bank. The enquiry officer was not at liberty to opt two different criterias for the perusal of statements of different bank employees.

- (7) The most important evidence is the statement of Shri Beant Singh given to the appellate authority. On failure of the enquiry officer to ensure the presence and recording the statement of Beant Singh, the workman produced Shri Beant Singh before the appellate authority. He has categorically stated before the appellate authority that he has put on his signature on both of the vouchers and has got the amount on the very day. The statement of Beant Singh was not relied upon by the appellate authority without any substance or giving any reasons.

Shri Beant Singh was also cross-examined by this Tribunal and he has specifically stated in his evidence that he signed both of the vouchers and he placed the vouchers for passing. This statement of Shri Beant Singh is very well corroborated by the evidence of DW1 and DW2 that without the presence of the person concerned these vouchers cannot be passed and the vouchers were passed in the presence of Shri Beant Singh.

Thus, on the basis of the above discussion, I am of the view that entire decision of enquiry officer and the appellate authority is based on hypothesis, doubts, and guess. The evidence before the enquiry officer was not sufficient to prove the charge of misconduct as alleged above. Accordingly, both of the charges were not proved and the decision of the enquiry officer was suffered with perversity in decision making. Accordingly, the report of enquiry officer proving both of the charges against the workman and the punishment awarded to him are set aside. The bank is directed to reinstate the services of the workman with all the consequential benefits within one month from the date of publication of this award. The reference is accordingly answered. Let Central Government be informed for publication of award, and thereafter, file be consigned to record room.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1412.——औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 17/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-12012/208/2003-आई आर (बी-1)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1412.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2004) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh now as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Patiala and their workman, which was received by the Central Government on 5-5-2010.

[No. L-12012/208/2003-IR (B-I)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH**

Case I.D. No. 17/204

Sh. Balwinder Singh S/o Shri Kinder Ram,
R/o Village & P.O. Joghlan,
Tehsil Nalagarh, Distt. Solan,
Himachal Pradesh-173212 ... Applicant

Versus

The Assistant General Manager,
State Bank of Patiala, Region-II,
Timber House, Regional Office,
Shimla (Himachal Pradesh-171001) ... Respondent

APPEARANCES:

For the workman : None

For the Management : Shri N.K. Zakhmi

AWARD

Passed on 21-4-2010

Government of India vide notification No. L-12012/208/2003-IR (B-I) dated 23-1-2004, by exercising its powers under Section 10 of the Industrial Dispute Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of State Bank of Patiala, Shimla Region in dismissing Shri Balwinder Singh, Ex-Peon from Bank's service w.e.f. 8-2-2002 by inflicting disproportionate punishment is just and legal ? If not, what relief he is entitled to ?”

2. Case repeatedly called. None appeared on behalf of the workman despite repeated calls. On perusal of the record, it reveals that none is appearing on behalf of the

workman for the last several dates. It appears that workman is not interested to pursue with the present reference. In view of the above, the claim in the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed. File be consigned.

Chandigarh,
21-4-2010

G. K. SHARMA, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1413.——ऑद्योगिक विधि अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एटावा क्षेत्रीय ग्रामीण बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 62/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-12012/495/98-आई आर (बी-I)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 62/99) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure, in the Industrial Dispute between the management of Etawah Kshetriya Gramin Bank and their workman, which was received by the Central Government on 5-5-2010.

[No. L-12012/495/98-IR (B-I)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 62 of 1999

BETWEEN:

Sri Suresh Babu,
Village Devipura,
P.O. Raja Ka Bagh,
District, Etawah

AND

Etawah Kshetriya Gramin Bank,
123-A Kuchehari Road,
Etawah

AWARD

1. Central Government, MOL, New Delhi vide notification No. L-12012/495/98-IR (B-1) dated 8-3-99 has

referred the following dispute for adjudication to this tribunal :

“Whether the action of the management of Etawah Kshetriya Gramin Bank, Etawah in terminating the services of Sri Suresh Babu, Peon Kakawali Branch with effect from 4-4-91 is justified or not ? If not, what relief the workman is entitled to ?”

2. The workman has filed his statement of claim seeking relief that the action of the opposite party in terminating the services of the workman with effect from 4-4-91 be held illegal and unjustified and he be reinstated in the services of the opposite party with full back wages, continuity of services and with consequential benefits on the ground that he was appointed at the head office of the opposite party on 2-5-87 and worked continuously there till 1-3-90 where after he was transferred to the bank's Kukavali Branch. Initially he was paid wages at the rate of Rs. 13 per day up to the year 1991. It is also pleaded by the workman that for enhancement of his wages he approached the officers of the opposite party and also demanded regular pay and allowances, but he was not regularized in the services of the opposite party bank. He has also alleged that he has completed for more than 240 days of continuous service. The officer of the opposite party became under pressure due to continuous demand of the workman for making payment of wages on regular basis and to regularize his service in the bank as a result of which the services of the workman were orally terminated on 4-4-91. It has also been pleaded by the workman that junior persons to him viz. Sugriva Sharma was retained in the service by the opposite party. It is also pleaded that the work on which the workman was appointed continued even after his termination. In this way the opposite party has acted unconstitutionally and unjustified. No notice, notice pay or retrenchment compensation was offered by the opposite party at the time of removal of his services and therefore, the entire action of the opposite party is in breach of the provisions of Section 25F, 25G and 25H of the Act. Therefore, the applicant has prayed for his reinstatement in the services of the opposite party with full back wages, continuity of services and all consequential benefits.

3. The claim of the workman has been vehemently contested by the opposite party on a number of grounds and at last it has been prayed that the workman is not entitled for any relief as the claim of the workman is devoid of merit as there never existed any relationship of employer and employee between the workman and the opposite party and that the provisions of Industrial Disputes Act are not applicable in the case of the workman.

4. After exchange of pleadings between the parties the workman inexorably failed to adduce documentary and oral evidence for support of his case. Whereas the opposite party vide list of documents 6-4-2004, has filed certain photocopies of payment vouchers.

5. After giving my enxious considerations to the facts detailed above, I am of the firm opinion that virtually it is a case of no evidence. Burden lies on the workman to prove his case that he had worked continuously within the meaning of section 25-B of the Industrial Disputes Act, 1947. Since this burden has not been discharged by the workman, therefore, he cannot be granted protection of the provisions of Industrial Disputes Act, 1947, as none of the provision attracts in the case of the workman.

6. In view of above discussion, it is held that the action of the management in terminating the services of the workman with effect from 4-4-91 is neither illegal nor unjustified. Result is that the workman is held entitled to no relief pursuant to the present reference.

7. Accordingly reference is answered against him and in favour of the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंताट (संदर्भ संख्या 44/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-12025/4/2010-आई आर (बी-1)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workman, which was received by the Central Government on 5-5-2010.

[No. L-12025/4/2010-IR (B-I)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/44/96

SHRI MOHD. SHAKIR HASAN, Presiding Officer
Dy. General Secretary,
Staff Bank of India Staff Congress,
Through Shri N. Raghunath Rao,
House of Shri K.B. Sinha, Qr. No. 45-46,
Daya Nagar, Jharia Building,
Yadav Colony Road, Jabalpur ... Workman/Union

Versus

The Chief General Manager,
State Bank of India,
Local Head Office,
Hoshangabad Road,
Bhopal (MP)

... Management

ORDER

Passed on this 19th day of April, 2010

1. This is an application dated 25-7-1998 on behalf of the Union for restoration of the terms of reference.

2. According to the applicant/Union, the Union was represented through his Deputy General Secretary, Shri N. Raghunath Rao. It is stated that on 25-11-97 the case was fixed for evidence of the workman/Union but the applicant met with an accident on 25-9-97 and was unable to move. When the applicant became fit on 15-1-98, he came to know that the award was passed in the reference on 9-1-98. It is stated that there was unavoidable circumstances and therefore in the interest of justice, the reference be restored in its original file.

3. The non-applicant/management filed a reply dated 28-5-99 stating therein that the applicant has himself stated that he came to know about passing of award on 15-1-1998 but the restoration petition was filed after the lapse of about six months. Thus there is no reasonable ground in filing the application after lapse of six months from the date of knowledge of the award. It is submitted that the application is fit to be dismissed.

4. Now the important point for consideration is as to whether the absence of the applicant was on reasonable and justifiable ground.

5. It is clear from the application of the applicant that there is no prayer for setting aside the award dated 9-1-98 rather the prayer is only for restoration of the reference. Since there is no rayer, it appears to be not proper to set aside the award dated 9-1-1998.

6. The applicant has not adduced any evidence to prove that there was reasonable ground for non-appearance on the date fixed when the award was passed. The reason attributed that the applicant met with an accident on 25-9-97 and thereafter he was unable to move. This is a fact and the fact is to be proved by adducing evidence. In this case, no evidence is adduced by the applicant to prove that there was reasonable ground of his non-appearance in court. In absence of any evidence, the applicant has failed to establish that there was reasonable and justifiable ground of his absence.

7. The award appears to have been passed on 9-1-1998 and the applicant has himself stated in his application that he came to know on 15-1-1998 but the application was filed officer six months. Thus there is no reasonable ground of his absence and there is no merit in

the application. Accordingly the application dated 25-7-1998 for restoration of the reference is dismissed without costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1415.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, चंडीगढ़ के पंचात (संदर्भ संख्या 27/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-5-2010 को प्राप्त हआ था।

[सं. एल-12012/6/2006-आई आर (बी-II)]
य. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1415.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/2006) of the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh now as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Punjab and Sind Bank and their workman, which was received by the Central Government on 4-5-2010.

[No. L-12012/6/2006-IR (B-II)]
U.S. PANDEY, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHANDIGARH**

Case I.D. No. 27/2006

**Shri Charanjit Singh,
S/o Shri Bawa Singh Hamdard,
Village and PO Jaura Chattran,
Tehsil and Distt. Gurdaspur,
Gurdaspur**

... Applicant

Versus

**The Manager,
Punjab & Sind Bank,
Village and PO Panj Gorian,
Tehsil, Batala,
Gurdaspur**

... Respondent

APPEARANCES

For the Workman : Shri R.P. Rana

For the Management : Shri J.S. Sathi

AWARD

Passed on 24-4-2010

Government of India vide notification No. L-12012/6/2006 -IR (B-II), dated 2-6-2006 by exercising its powers under Section 10 of the Industrial Disputes Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of Punjab & Sind Bank, Gurdaspur in terminating the services of Shri Charanjit Singh, Ex-Peon w.e.f. 31-1-2002 without complying with the provisions of the I.D. Act, 1947 is just and legal. If not, to what relief the workman is entitled to ?”

After receiving the reference parties were informed. Parties appeared and filed their respective pleadings. The main contention of the workman which is clear from his pleadings is that he was appointed by the management of the bank as temporary peon w.e.f. 3-7-1989. His services were transferred from one bank to another with notional breaks of two days. He has worked with Dhariwal Branch, Kathlор Branch, Rudiana Branch and Wadala Banger Branch Gurdaspur. His services were illegally terminated w.e.f. 31-1-2002. He has completed 240 days of work in the preceding year from the date of his termination. His services were terminated without a month notice or payment of one month wages in lieu of notice and without payment of lawful retrenchment compensation. After the termination of the services of the workman new hands were recruited. On the basis of the above contentions the workman has prayed for setting aside the termination order for consequential orders reinstating him into the services along with consequential benefits.

The management of the bank appeared and contested the claim of the workman by filing written statement. It was contended by the management that workman was not appointed as per the procedure established by the rules of the department. Accordingly, he cannot claim any right to the post. The management also referred few judgements of Hon'ble High Court of Punjab and Haryana in pleadings. In both of the judgments Hon'ble the High Court of Pb. & Haryana has expressed views and has settled the law that a casual worker has no right to post and claim for regularization of his services.

Both of the parties were afforded the opportunity for adducing evidence. Workman filed his affidavit and he was cross-examined by learned counsel for the bank on 16-3-2010. Likewise, on behalf of the management Shri Rattan Singh, Manager, Pb. & Sind Bank Wadala Branch, Gurdaspur filed his affidavit and he was cross-examined by learned counsel for the workman at length on 16-3-2010. Parties were heard at length on 16-3-2010. Parties were heard at length on the same day and the file was reserved for award.

On perusal of the pleadings and evidence of the parties, it is evidently clear that workman has challenged his termination order on two counts. He has challenged the termination order on account of failure of his right protected under Section 25 F of the Act and on violation of his right under Section 25 H of the Act.

As per the provisions of above mentioned section, the services of any casual workman cannot be terminated without a month notice or payment of one month wages in lieu of notice and without the payment of lawful terminal dues. The workman has claimed that his services were terminated without complying with the above mentioned provisions of the Act.

On the other hand, the workman has also claimed that after the termination of his services new hands were appointed in violation of Section 25 H of the Act. Section 25 H contains the important right of the workman for his right to priority of services. As per this provision, if the services of any workman are required the priority shall be given to the retrenchees.

The witness of the management has admitted both of the contentions of the workman. The opening line of the cross-examination of the witness of the management Shri Rattan Singh is that workman has worked up to 31-1-2002. As per the records he has completed 240 days of work in the preceding year from the date of his termination. It is also admitted by the witness of the management one Shri Surjeet is working as Gunman. He is not a casual worker. His services were provided to the management by the contractor.

On perusal of the evidence of the management, it is evidently clear that workman has worked up to 31-1-02 with the management. He has completed 240 days of work in the preceding year from the date of his termination. It is also admitted that no notice or one month wages in lieu of notice or lawful retrenchment compensation was paid to him at the time of termination of his services. It is further admitted that work for which workman was working is still available and one Shri Surjeet Singh is working at his place.

On the other hand, the workman has also filed some documents exhibit W2 to ex. W7 to prove that he has worked from 3-7-89 to 31-7-2002. He has almost worked for 13 years in the bank and the management one fine morning without disclosing any reasons and without comply with the provisions of the Act terminated the services of the workman illegally. Accordingly, the termination of the workman from the services is void and illegal.

Whenever the termination of the workman has been declared to be null and void being against the provisions of the Act, there are two possible remedies available to the workman. The first remedy is his reinstatement into the services on the same position on which he was working at

the time of termination from the services and the second remedy is the payment of reasonable compensation. It is settled law of services jurisprudence that priority should be given for reinstatement of the workman into the services and in exceptional circumstances where the work is not available, no post is lying vacant etc. the workman should be compensated by an amount of reasonable compensation.

There has been a change in the trend of service jurisprudence regarding the reinstatement into the services of a casual workman and the recent trend is that reinstatement of the workman into the services should not be casual. It should be supported by specific reasons otherwise the workman should be compensated by an amount of reasonable compensation.

The management again and again has taken and pressed the plea that the workman has no right to post. It is true that a casual worker has no right to post. The workman has not come before this Tribunal for the protection of his right if any for regularization of his services against any post. He has approached this Tribunal on the violation of his right to continue in the services and for the protection of his right from illegal termination. The provisions of Industrial Disputes Act never barred the termination of any workman. The provisions of the Act regulates the termination. The termination of any casual worker if it is required, should be succeeded by one month notice or payment of one month wages in lieu of notice and payment of lawful terminal dues. If it is not done the termination will be void and illegal. It is the position in this case. After considering all the facts and circumstances of this case, I am of the view that reinstatement of the workman into the services shall be appropriate remedy in this case. I am also of the view that reinstatement should be with full back wages. I am given the following reasons for my conclusion that workman should be reinstated into the services with full back wages :

- (1) The workman has served for 13 years continuously in the bank (admitted by MW1).
- (2) He has completed 240 days of work in the preceding year from the date of his termination (admitted by MW1).
- (3) His services were terminated without complying with the procedure laid down in the Act (admitted by MW1).
- (4) The workman for which the workman was working was of continuous nature and is still available.
- (5) After the termination of the services of one Shri Surjeet Singh was appointed for the same work as Gunman. (admitted by MW1).

It is also proved by the workman that Shri Balwinder Singh and Yashpal Singh was appointed by the

management after the termination of the services of the workman without affording any opportunity to the workman.

Thus, on the basis of the above reasons, I am of the view that it is case where the services of the workman should be reinstated. This order will meets the ends of justice and under the circumstances where there is also the violation of Section 25H of the Act the services of the workman should be reinstated along with full back wages.

Accordingly, the management of respondent is directed to reinstate the services of the workman within one month from the date of publication of the award. Management is further directed to comply with other part of the award (within three months) from the date of publication of the award. Let appropriate Government be approached for publication of award, and thereafter, file be consigned to record room.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1416.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, चंडीगढ़ के पंचाट (संदर्भ संख्या 199/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-05-2010 को प्राप्त हुआ था।

[सं. एल-12011/201/2003-आई आर (बी-II)]

यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1416.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 199/2003) of the Central Government Industrial Tribunal/Labour Court-I, Chandigarh now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Punjab and Sind Bank and their workman, which was received by the Central Government on 04-05-2010.

[No. L-12011/201/2003-IR(B-II)]

U. S. PANDEY, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case ID No. 199/2003

Shri Tarlochan Singh, C/o. The Vice President,
Punjab and Sind Bank Staff Organisation, C/o. Punjab
and Sind Bank Sainik Rest House, Ropar, Punjab
... Applicant

Versus

The Zonal Manager, Punjab and Sind Bank, Zonal
Office, Civil Lines, Ludhiana ... Respondent

APPEARANCES:

For the Workman : Workman in person

For the Management : Shri J. S. Sathi.

AWARD

Passed on : 20-04-2010

Government of India vide notification No. L-12011/201/2003-IR(B-II) dated 10th of December, 2003 by exercising its powers under Section 10 of the Industrial Disputes Act, 1947 (the Act in short), referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of Punjab & Sind Bank in awarding the penalty of bringing down of pay to lower stage by one stage of Shri Tarlochan Singh, ALPM Operator is legal and justified ? If not, what relief the concerned workman is entitled to and from which date ?”

2. The case is taken up for hearing. Workman is present in person. Learned counsel for the management is also present. Workman has moved an application for withdrawal his industrial dispute on account of his promotion by the management. In his statement the workman has categorically stated that he has no grievances pending against the management. Learned Counsel for the management has no objection for withdrawal of the same. Accordingly, the industrial dispute is dismissed being withdrawal. Central Government be informed for publication of award and thereafter, file be consigned to record room.

Chandigarh, G.K. SHARMA, Presiding Officer
20-04-2010

नई दिल्ली, 5 मई, 2010

का. आ. 1417.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, चंडीगढ़ के पंचाट (संदर्भ संख्या 337/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-05-2010 को प्राप्त हुआ था।

[सं. एल-12012/160/2001-आई आर (बी-II)]

यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 337/2001) of the Central Government Industrial Tribunal/Labour

Court-I, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 04-05-2010.

[No. L-12012/160/2001-IR(B-II)]
U. S. PANDEY, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case ID No. 337/2001

Shri Sant Pal Singh, C/o. Shri Tek Chand Sharma,
25, Sant Nagar, Civil Lines, Ludhiana-144001
... Applicant

Versus

The Chief Regional Manager, Bank of India, 579,
Model Town, Ludhiana-141001 ... Respondent

APPEARANCES:

For the Workman : Shri T. C. Sharma.

For the Management : Shri Ranjan Lohan

AWARD

Passed on : 21-04-2010

Government of India vide notification No. L-12012/160/2001-IR(B-II), dated 13-11-2001, by exercising its powers under Section 10 of the Industrial Disputes Act, 1947 (the Act in short), referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of Bank of India in awarding the punishment of dismissal from services to Shri Sant Pal Singh, S/o. Shri Bichittar Singh, Armed Guard w.e.f. 31-05-1999 is legal and just ? If not, what relief the concerned workman is entitled to and from which date ?”

After receiving the reference parties were informed. Parties appeared and filed their respective pleadings. On perusal of the pleadings of the parties, it is evidently clear that a departmental enquiry was conducted against the workman for his unauthorized absent from duty from 14-12-1998 to 30-01-1999. The workman appeared before the enquiry officer and admitted his misconduct. On the basis of his admission, the enquiry officer submitted the report to the disciplinary authority. Disciplinary authority after issuing the show cause notice and so called affording the opportunity of personal hearing awarded the punishment of dismissal from services w.e.f. 31-01-1999.

The workman raised the industrial dispute and on account of failure of conciliation proceedings this reference.

The workman was working as security guard in the bank. As stated by him enquiry was not conducted in a fair and proper manner no opportunity of being heard, no opportunity of personal hearing was given by the disciplinary authority. He has not voluntarily admitted the charges. On the other hand, the management has contended that all possible opportunity of being heard was given to the workman. He voluntarily admitted the charges and after his admission there was no occasion to continue with the enquiry and enquiry report was submitted. The disciplinary authority issued the show cause notice and opportunity of personal hearing was also given. The workman has not availed the opportunity of personal hearing given to him twice. On failure of the workman to appear before the disciplinary authority without any reasonable cause, the disciplinary authority proceeded further and awarded the punishment of dismissal.

Evidence of the parties was recorded by the Tribunal. Documentary evidence is also on record which were marked exhibits as per law. I have heard the parties at length. Learned Counsel for the workman and the workman in person have agitated the voluntariness and freeness of admission of the charge before enquiry officer. It is contended that he admitted the charges on assurance of providing lesser punishment. Learned counsel for the management has stated that this industrial dispute is not maintainable because it was raised before exhausting the statutory remedy of appeal available to the workman.

So far as the enquiry is concerned, I am of the view that enquiry was conducted in a fair and proper manner and there has been no violation of any rules or principle of natural justice while conducting the enquiry. Even before this Tribunal the workman has admitted exhibit W1, admission letter. He has also admitted that he was removed from the services of the bank for his unauthorized absent. He received the charge sheet. Enquiry was conducted. He appeared before the enquiry officer. It is also admitted by the workman that he confess before the enquiry officer with the words that he has committed the mistake and in future he will not do the mistake. Considering the evidence of the workman, I am of the view that enquiry was rightly conducted. This Tribunal cannot act and work as appellate authority of the enquiry officer. It can only evaluate and see any case of glaring injustice cause to the workman on account of the perversity of the enquiry officer. Where the workman has himself admitted before this Tribunal that he was unauthorized absent and he was awarded the punishment for unauthorized absent and he admitted the charge before the enquiry officer with an assurance that he will not repeat the act of unauthorized absent, there is no occasion for this tribunal to interfere in the findings of the enquiry officer. The workman has also

challenged the punishment of dismissal awarded by the disciplinary authority. On perusal of the enquiry file, I am of the view that reasonable and sufficient occasions were afforded by the disciplinary authority for availing the opportunities of personal hearing and the workman failed to avail the opportunities. Thus, disciplinary authority has rightly awarded the punishment. The workman has further challenged the adequacy of punishment. On this the management has challenged this reference on account of failure of the workman to avail and exhaust the statutory remedy of appeal available to him.

The question before this Tribunal is whether this Tribunal should not answer and adjudicate on the legal and technical plea of the management on failure of the workman to exhaust statutory right to appeal before raising the industrial dispute ? In my view the justice should not deny merely on the technicalities of procedural and substantial law. It makes the difference between the adjudication of any reference and justice delivery. Two are altogether different concepts. This Tribunal has to ensure the delivery of justice through adjudicating and answering this reference, but it cannot afford to be the technical quasi-judicial adjudication. Moreover, the proceedings of this Tribunal run on the basis of justice, enquiry and good conscious. The prime goal for this Tribunal is delivery of justice. At the cost of repetition the justice should not deny merely on the technical and procedural lapses.

In this reference the workman is comparatively from the suppress socio-economic class. Under such circumstances, it is the duty of the Tribunal to be more sensitized for the rights of the workman regarding delivery of justice. If this reference is not answered and adjudicated on account of technical plea raised by the management, stated earlier, it will be adjudication and disposal of this reference but it will resulted in the failure of justice. As stated earlier, this Tribunal has to ensure justice, by adopting new horizons and by keeping out from the pigeon hole for delivery justice if permitted by law. It is true that this Tribunal cannot go beyond the scope of the reference. But the law empowered this Tribunal to adopt its own procedure and answer the reference on the basis of justice, enquiry and good conscious. Moreover, the law in the changing circumstances, as the society is changing every day cannot be static. It has to change as per the need of the society to cater its needs for justice delivery. It is not within the preview of this Tribunal to change the law but to implement the law as per new horizons regarding the delivery of justice. Thus, I am not inclined to accept the contention of the management that this Tribunal has no jurisdiction to answer the reference on account of failure of the workman to exhaust a statutory right to appeal before raising the industrial dispute. This Tribunal is competent on the basis of the above observation to answer the reference.

The workman has challenged the order of punishment passed by the disciplinary authority. The disciplinary authority has awarded the punishment of dismissal from the services on misconduct of the workman for unauthorized absent from 14-12-1998 to 31-01-1999. It is the absence of 15 days for which the punishment of dismissal from the services has been awarded by the disciplinary authority.

This Tribunal in the normal circumstances cannot act as the appellate authority of the disciplinary authority. In normal circumstances, the punishment by the disciplinary authority should not be interfered by this Tribunal. It is in the case of glaring injustice committed by the disciplinary authority that this Tribunal has been conferred the jurisdiction to interfere in the punishment awarded by the disciplinary authority on the ground of perversity. Section 11A of the Industrial Disputes Act conferred the same jurisdiction to this Tribunal.

As per the recent trend of service jurisprudence, the provisions of Section 11A are to be sparingly used by this Tribunal. This Tribunal has to see whether the punishment awarded, is not in proportionate to the committed misconduct which amounted to the perversity in decision making of the disciplinary authority. It is true that the discipline in any institution or organization is its backbone. The indiscipline of any workman should not be tolerated. If it is tolerated it will affect the very work culture and the existence of the institution, but the punishment awarded should be proportionate to the committed misconduct. Admittedly, the misconduct is of unauthorized absence of the workman from duty from 14-12-1998 to 31-01-1999 and the punishment awarded is dismissal of the workman from the services. In my view this is not the proportionate punishment as per the committed misconduct.

In affidavit the witness of the management has also narrated some previous punishment awarded to the workman. There are four punishments awarded to the workman. Two out of four are warnings, one is stoppage of two future increments with cumulative effect, whereas, last and fourth one is bringing down his basic pay.

Now, the question is whether the disciplinary authority can be permitted to guide his brain on the basis of the previous punishment awarded to the workman. In my view the sole and main criteria is the misconduct committed by the workman for which he is awarded the punishment. The previous punishments cannot be the sole basis or even basis for awarding the punishment. The previous punishment may have some relevancy in enquiry but cannot be the sole basis for awarding the punishment in subsequent misconduct. Accordingly, the punishment of dismissal from the services of the workman on account of his 15 day unauthorized absent from the service is not in proportionate to the punishment awarded to him. It is the perversity of the disciplinary authority to make the

previous punishment basis of the existing punishment. The disciplinary authority is not permitted under the law of service jurisprudence to do so. Moreover, the workman was heard on the charge framed against him. No opportunity was given to him on previous punishments even by disciplinary authority. It was not pleaded as well by the management before this Tribunal. Surprisingly, this issue was raised while filing affidavit. In my view, it is an after thought and has been raised to justify much excessive punishment awarded to the workman. Accordingly, punishment awarded by the disciplinary authority has no lacks to stands and requires modifications. This Tribunal while exercising powers vested in it under Section 11A of the Industrial Disputes Act, for substituting the punishment, is not required to remand the case to the disciplinary authority for punishment afresh. Accordingly by exercising the powers vested in this Tribunal under Section 11A of the Act, I am setting aside the punishment of dismissal of the workman from the services and substituting it by stoppage of five increments with cumulative effect. I am also of the view that the period for which the workman was unauthorized absent shall not be treated in service. Such a punishment will be proportionate to the committed misconduct and will also help in maintaining the discipline in the organization. The management is accordingly, directed to reinstate the services of the workman with full back wages subjected to the punishment awarded by this Tribunal within one month from the date of publication of this Award. This reference is accordingly answered. Appropriate Government be approached for publication of award, and thereafter, file be consigned to record room.

G. K. SHARMA, Presidng Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, चंडीगढ़ के पंचाट (संदर्भ संख्या 179/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-05-2010 को प्राप्त हुआ था।

[सं. एल-12011/23/2001-आई आर (बी-II)]

यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 179/2001) of the Central Government Industrial Tribunal/Labour Court-I, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Punjab National Bank and their

workman, which was received by the Central Government on 04-05-2010.

[No. L-12011/23/2001-JR(B-II)]
U. S. PANDEY, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case ID No. 179/2001

The General Secretary, Bhartiya Adhinasth Bank Karamchari Sangh, 334, Dayal Bagh, Ambala (Haryana)-133 001. Applicant

Versus

Punjab National Bank, The General Manager, PNB, Regional Office-I, Sector 17-B, Chandigarh.

. . . Respondent

APPEARANCES :

For the Workman : Shri R. P. Rana
For the Management : Shri S. C. Negi

AWARD

Passed on : 21-04-2010

Government of India vide notification No. L-12011/23/2001-IR(B-II), dated 26-04-2001 by exercising its powers under Section 10 of the Industrial Disputes Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of Punjab National Bank in denying the demand of Bhartiya Adhinasth Bank Karamchari Sangh, Ambala Cantt. for extending the benefit of passing matriculation examination from Central Board of High Education, New Delhi to S/Shri Vijay Kumar, Daftri and Lal Chand Daftri in the similar way as already given to Shri Shyam Sunder Batra is just and legal ? If not, what relief the workman are entitled ?”

After receiving this reference parties were informed. Parties appeared and filed their respective pleadings. On the bare perusal of reference referred by the Central Government, it is apparent that the grievances of both of the workmen namely Shri Vijay Kumar Daftri and Shri Lal Chand Daftri are denying the right to promotion on their passing matriculation examination from Central Board of High Education, New Delhi. It is the contention of both of the workmen that they qualify the matriculation qualification on 08-02-1985 from the Central Board of Higher Education but they were not allowed to sit in the examination by the management. One Sri Sham Sunder

Batra who passed the matriculation examination from the same institute, Central Board of Higher Education, New Delhi on 05-07-1984 was allowed to sit in the departmental examination in the year 1984 for the promotion to the post of clerk-cum-cashier and he was promoted as clerk-cum-cashier in the same year he passed the matriculation examination. On the basis of the above, both of the workmen have prayed for directing the management to promote them from the date they passed the matriculation examination on 08-02-1985.

The management of respondent bank appeared and filed the written statement. Every fact raised and relied upon by the workman has been accepted and admitted by the management except the fact that matriculation examination from Central Board of Higher Education, New Delhi is not recognized by the management of the bank and accordingly workmen are not entitled for any benefit of qualifying the matriculation examination from the Central Board of Higher Education, New Delhi. It is also admitted that Shri Sham Sunder was given the benefit of the promotion for matriculation examination from the Central Board of Higher Education, New Delhi but he was wrongly given this benefit and if the benefit to any workman has wrongly been given the subsequent workman cannot claim parity with the benefit.

Both of the parties were afforded the opportunity for adducing evidence. Shri Vijay Kumar and Shri Lal Chand filed their respective affidavits and their cross-examination was recorded. Shri Pushpendra Kalia, Senior Manager of the management bank filed his affidavit on behalf of the management and he was also cross-examined by the learned counsel for the workman. Parties were heard at length. On perusal of the materials on record, it is evident that for the promotion of group-D cadre to Class-III employees in the bank there are two procedures :—

- (1) Departmental promotion on the basis of departmental test.
- (2) Promotion by special test conducted by the management of those persons who have passed matriculation qualification from the recognized institution.

The witness of the management has stated that both of the workmen were given chance to appear in the departmental test for promotion but they could not qualify. The question before this Tribunal is not denial of right of the workman to appear in the departmental promotion. The question before this Tribunal is denial of the right of the workman to appear in the test for promotion for the persons who have passed the matriculation examination. For this the management has contended that the institutions from which both of the workmen have passed

the matriculation examination is not recognized by the management. A copy of the institutions which has been recognized by the management has been filed. The case of the workman is different. Both of the workmen have claimed parity with Shri Sham Sunder who has passed the matriculation examination from the same institution and has been permitted to appear in the promotion procedure for matriculation qualification holders. Shri Sham Sunder was not only permitted to appear in the test but he was promoted on the basis of same qualification, whereas, the right of the workman, in spite of having the same matriculation qualification was denied.

Right to promotion is a fundamental right which cannot be curtail or taken away without reasonable criteria. The right to promotion is protected under Article 21 of the Constitution as right to life and personal liberty.

Article 21 specifically provides that no person shall be deprived the right of his life and personal liberty without the procedure established by law. It is true that management has contended that both of the workmen were deprived of the right by the procedure established by law as the institution from which they passed the matriculation examination is not recognized by the management. But this right is not to be read in isolation. It is to be seen in the light of right to equality protected under Article 14 of the Constitution. Article 14 of the Constitution protects, the right to equality before the law and the protection of laws of all the persons within the territory of India. Meaning thereby management was barred to discriminate two persons of same category. Article 14 permits the state (the management in this case) to adopt a reasonable criteria for differentiation. Two different groups can be classified differently on the basis of reasonable criteria. It cannot be the base to deny the right to equality that a wrong benefit was attributed to a non-deserve person. The management has admitted that Shri Sham Sunder was given benefit of promotion on the basis of same qualification but has contended that it was a wrongful act committed by the management. This Tribunal asked the specific question from the witness of the management whether any action was taken by the management to rectify this mistake ? The answer was in negative. No action was taken by the management to rectify the mistake, if any. Under such circumstances, it shall be considered that management has accepted matriculation examination passed by Shri Sham Sunder from the recognized institutions. This presumption can be drawn from the conduct of the management for its inaction to take any action and laxity Shri Sham Sunder for giving him the benefit on the basis of matriculation examination from the same institutions. Shri Sham Sunder and these two workmen from the same group. Discrimination amongst the persons of the same group is violative of Article 14.

Moreover, Industrial Disputes Act is beneficiary legislation and its provisions are to be interpreted for

the benefit of that group it is enacted. That group is the workman. Accordingly the provisions of Industrial Disputes Act are to be construed directly, positively and purposively. If the above-mentioned provisions of law and the Constitution are taken into consideration, it is evidently clear that the management by its conduct admitted the institutions from which both of the workmen have passed the matriculation examination as recognized institutions by rendering the benefit of matriculation qualification of Shri Sham Sunder from the same institution. Under such circumstances the act of management denying the workman to appear into the examination for promotion to class-III employees on the basis of their examination was violative of Article 14 and 21 of the Constitution, accordingly void ab initio.

When the action of the management is declared to be violative and void the consequences will be direction to the management to give all the benefits which the management has given to Shri Sham Sunder on the basis of the same qualification from the date Shri Sham Sunder was given the benefit.

Accordingly, while answering his reference, I am of the view that action of the management denying the demand of Bhartiya Adhikasta Bank Karamchari Sangh, for extending the benefit of passing matriculation examination from Central Board of Higher Education, New Delhi to both of the workman namely Shri Vijay Kumar, Daftri and Shri Lal Chand, Daftri in the similar way as already give to Shri Sham Sunder Batra is unconstitutional and void. On the basis of the observations made in the body of this award both of the workman namely Shri Vijay Kumar, Daftri and Shri Lal Chand Daftri are entitled for promotion and all other benefits attributed to class-III employee as given by the bank to Shri Sham Sunder Batra from the day Shri Batra was given such benefits. The management of the bank is directed to comply with the direction given in the body of the award within one month from the date of publication of the award. Let Central Government be approached for publication of award, and thereafter, file be consigned to record room.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 5 मई, 2010

का. आ. 1419.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल बैंक फॉर एग्रीकल्चर एवं रूरल डंबलपर्मेंट के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, चंडीगढ़ के पंचाट (संदर्भ संख्या 139/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-5-2010 को प्राप्त हुआ था।

[सं. एल-12012/242/1999-आई आर (बी-II)]
यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 5th May, 2010

S.O. 1419.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 139/2000) of the Central Government Industrial Tribunal/Labour Court-I, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Bank for Agriculture and Rural Development and their workman, which was received by the Central Government on 4-5-2010.

[No. L-12012/242/1999-IR(B-II)]
U. S. PANDEY, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH**

Case I.D. No. 139/2000

Shri Som Nath S/o Shri A. Singh,
C/o Shri R.S. Longia,
House No. 3176/2,
Sector-44-D,
Chandigarh

... Applicant

Versus

The Chief General Manager,
National Bank for Agriculture & Rural Development,
Plot No. 3,
Sector-34-A
Chandigarh

... Respondent

APPEARANCES :

For the Workman : Shri R.S. Longia

For the Management : Shri Mukesh Alhuwalia

AWARD

Passed on 21-4-10

Government of India vide notification No. L-12012/242/1999 IR (B-II), dated 4-2-2000 by exercising its powers under Section 10 of the Industrial Disputes Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the Chief General Manager, of national Bank for Agriculture and Rural Development, Chandigarh in terminating the services of Shri Som Nath S/o Shri Ajmer Singh w.e.f. 1-6-1998 is just and legal ? If not, what relief the workman is entitled to ?”

After receiving the reference, parties were informed. Parties appeared and filed their respective pleadings. The workman in his statement of claim has stated that he joined the bank as electrician on daily wage basis with the respondent management w.e.f. 16-8-90. Initially his salary was Rs. 500 per month which was subsequently revised several times to Rs. 600, Rs. 800 Rs. 1050 and w.e.f. 9-2-96 Rs. 1200 per month. The services of the workman were terminated on 1-6-1998 without any notice or one month wages in lieu of notice and without payment of retrenchment compensation. After the termination of his services fresh hands were recruited. His juniors were retained in the services, whereas, his services were terminated illegally. On the basis of the above contentions, the workman has prayed for an order setting aside the termination order and for consequential order reinstating the services of the workman with all the benefits.

The management of respondent appeared and contested the claim of the workman. The employer and the employee relationship between the workman and the management of respondent bank has been denied by the management. On rest of the issued the management has contended that the services of the workman were taken on contract. M/s Indian Impact and M/s Amar Singh provided with the services of the workman to the management. It was further contended that management had no posts of electrician and the work of electrician was carried on by the workman on contract.

Both of the parties were afforded the opportunity for adducing evidence. workman filed his affidavit and he was cross-examined by learned counsel for the management. Shri Vanket Subharmaniyan AGM, NABARD filed his affidavit on behalf of the management and he was cross-examined by learned counsel for the workman. Workman preferred to file some documents and some documents were also filed by the management.

I have heard learned counsels for the workman at length. Management was also afforded the opportunity for arguments but none was present on behalf of the management to argue the case. On perusal of the materials on record, it is also evident that management was not present on number of dates. Thus, after hearing the workman file was reserved for award.

No doubt, the management was not present but the issue raised and plea taken by the management in pleadings and evidence shall be considered by the Tribunal as such. On perusal of the pleadings of the parties, in my view the main issues for adjudication before this Tribunal are as follows :

- (1) Whether there existed any employer-employee relationship between the workman and the management of respondent bank ?

- (2) Whether the services of the workman were terminated by the management of respondent bank against the provisions of the Act ?
- (3) To what relief, if any, is the workman entitled ?

I am answering and disposing off all the issues one by one.

So far as the employer-employee relationship between the management of respondent bank and the workman is concerned it is an issue of facts and law. This issue has to be adjudicated and answered on the basis of the facts pleaded and evidence adduced. The management has taken two plea in this regard. The first plea is that workman has worked with the management on contract basis without executing any form of contract. Whatever the money was paid to him that were not wages but consideration of his working on contract with the management. Another plea taken by the management of bank is that services of workman were provided with to the management by M/s Amar Singh and M/s India Impact. The issue of employer and employees relationship between the workman and any organization has been dealt with by Hon'ble High Courts and Supreme Court in several judicial pronouncements. Hon'ble the Apex Court in Steel Authority of India Ltd., and Others Vs. National Union Water Workers and others AIR 2001 Supreme Court 3527 has dealt with this/issue very elaborately. Therafter, Hon'ble Apex Court in 2008 LLR 801, GM, ONGC Shilcher Vs. ONGC Contractual Workers Union, has also dealt with this issue in specific terms. Hon'ble the Punjab and Haryana High Court in Food Corporation of India and Others Vs. Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh and Others 2008 LLR 391, on relying the principles laid down by Hon'ble the Apex Court in Steel Authority of India Limited's Case (supra) and ONGC Shilcher's case (supra) has also dealt with the issue of employer and employee relationship between the workman and the management of bank. If the ratio of all the judgements mentioned above is taken into consideration for employer and employee relationship the following facts should be established :

- (1) That there existed a master and servant relationship between the workman and the management.
- (2) That the workman was under the administrative control of the management.
- (3) That there was no contractor in between the management and the workman.
- (4) That the payment of wages was made good by the management to the workman directly and not through any contractor.

- (5) At the cost of repetition the remittance rolls for the payment of wages were made by the management of respondent bank and not by any contractor.

If the above facts are considered in the facts and circumstances and the evidence adduced in the present case, it is evident that there was no contractor between the workman and the management. The management has relied upon and two contracts executed and signed between the contractor and the management for supplying of certain specific services. This contract seems to be for maintenance services. There is no iota of evidence on record that these contractors M/s Amar Singh provided with the services of the workman to the management. Regarding electrician there was no contract with any person entered into by the management of respondent bank. The next issue raised by the management is that workman was working on contract basis and in all the letters exhibit M1 to M12 he himself admitted that he is working on contract. The inference on master servant relationship should not be drawn and cannot be drawn on the basis of the interpretation of particular word in any document. A particular word in any instrument cannot be read over and interpreted in isolation. The instrument has to be read in entirety. Apart from it, the Tribunal has to consider the fact that there is a great disparity between the socio-economic conditions of the workman and the management. Management is always in the position to dominate the will of the workman. While interpreting the document or instrument entered in between the management and the workman this fact should be kept in mind whether the management has exercised his authority in getting the instrument prepared in its own manner? It is admitted fact that payment was made good by the management to the workman directly. It was not made good through the contractor. There are certain cheques which are available on record to show that payment was made good directly to the workman by the management. Documents M1 to M12 also proved that workman was directly written to the manager of the bank for enhancing his salary or for such other work. Thus, he was under the administrative control of the management of respondent bank. He was paid fixed wages monthly and these wages were increased by the bank several times on direct request of the workman. The opening word of letter exhibit M1 (Thekhe ke paise bhadhne ke baare main) make it clear that workman has not voluntarily written it but has written this letter as desired by the management. The word Theka has been frequently used in the letters, whereas, what was Theka is not one established. The witness of the management has shown his ignorance rather refused any contractor to exist in between the workman and the management of respondent bank for providing the services of the workman on contract. In absentia of any contract between the management and the workman and with any

contractor, the word Theka mentioned in the application of the workman for enhancing of wages cannot be conclusively be construed that workman was working on contract. The nature of these documents have to be seen cumulatively as per the ratio of the judgements mentioned above. The cumulative effect of oral and documentary evidence is as follows :

- (1) That workman was engaged directly by the management for electricity services.
- (2) His services were not provided with by any contractor to the management.
- (3) The payment was made good directly by the management to the workman.
- (4) The workman was very much under the administrative control of the management because the salary of the workman was enhanced several times by the management on request of the workman.
- (5) The salary bills were prepared by the management and were directly paid to the workman. The above facts are well established and proved. Thus, the word Theka used in M1 to M12 shall be read over and interrelated in light of the above observations and it cannot mean that workman was working on contract.

As stated earlier, when two parties are not equally based and equally situated and one of the party is in position to dominate the will of the other the Court should be very cautious and should not permit the party to prevail over the other. The word Theka in every letter M1 to M12 shows that this is the effect of the position of the management. On the other hand, the management fails to file/adduce even iota of evidence regarding the payment of wages to the workman through contractor, administrative control of contractor over the workman and such other facts. On the other hand, the workman has established that he was directly working with the management on fixed monthly rates which were enhanced several times by the management on request of the workman.

Thus, whatever the documents management has tried to prove before this Tribunal, may be M1 to M12 or any other documents are just paper arrangement to avoid any responsibility and liability to be accrued under the Industrial Disputes Act. The documents filed on record by the management clearly establish the master servant relationship and administrative control of the management over the workman. Where above mentioned facts are clearly established, in my view, there shall be a no effect of word Theka written by the workman while praying for

enhancing of wages to the management. Moreover, this word Theka may be taken as a fact not as an evidence. The management has utterly failed to prove that the workman was working either through contractor or on contract.

Thus, I am of the view that workman was directly engaged by the management. He was paid wages directly by the management. He was under the administrative control of the management and accordingly their existed master-servant relationship between them. Whatever the documents has been relied upon by the management are just a paper arrangement to avoid any liability regarding the rights of the workman to be accrued under the provisions of the Industrial disputes Act which amounts to be unlawful labour practice. Issue No. 1 is disposed of accordingly.

On the detail discussion on issue No. 1, the employer and employee relationship is clearly established. It is not denied that workman has worked from 16-8-90 to 1-6-98 continuously. It is not also the case of the management that workman has not completed 240 days of work. The workman has pleaded that he has continuously worked for almost 8 years, but two month which is not denied by the management. It is also admitted that no notice or one month wages in lieu of notice and lawful terminal dues and retrenchment compensation was paid to workman.

The management has contended in written statement that the workman was not lawfully appointed as per the rules of the department. The department has its own rules and regulations for the purpose of appointment of group D employees and the workman was not appointed as per rules. In this regard, it will be proper to say that there are two categories of employees. One category of employees is that who is appointed directly by the management against substantial vacancy as per the rules of the bank and another category of the workman is those workman whose services have been taken by the management on casual basis under special circumstances for exigency of work. These two categories cannot be compared as per article 14 of the Constitution. It is well established law of service jurisprudence that a casual worker has no right to post and in no way he can claim the right at par with the workers appointed as per rules. The Industrial Disputes Act also protects the services of the casual workers. In this case it is the right to work which is protected and not the right to regularization of the casual workman against any post. The services of casual workers can be terminated at any time. But it should be succeeded with the act of the management as per the provisions mentioned in Industrial Disputes Act. Industrial disputes Act does not bar the termination of the services of the casual workman but the termination is regulated. The termination of the casual workman is regulated in the sense that it should be succeeded by a month notice or payment of one month

wages in lieu of notice and payment of lawful terminal dues. If it is not done the termination of the services of the workman will be unlawful and void being against the provisions of the Act.

In this case it is established and held by this Tribunal that there was direct employer employee relationship between the workman and the management and his services were terminated by the management without complying with the procedure established under the provisions of the Act. Thus, the termination of the workman was illegal, unlawful and void.

Whenever the termination of any workman is declared to be unlawful, illegal and void there are two possible remedies available to the workman. The first remedy is his reinstatement into the service and the second remedy is a reasonable compensation. So far as the first remedy is concerned that is also limited to the reinstatement on the same position on which the workman was working prior to his termination. It has no concern with the regularization of the services unless and until not specifically directed by the Tribunal for the reasons mentioned in the award. This Tribunal cannot permit the management or itself to bypass the rules and regulations of the department regarding the appointment and regularization. That is the reason Hon'ble the Apex Court in several judicial pronouncement has held that reinstatement of the workman into the services should not be casual. It should be based on reasons to be mentioned and explained in the order or judgement reinstating the services of the workman. Management has also contended that there is no post of electrician, and accordingly reasonable compensation, in my view, will be an appropriate remedy.

Another remedy available is the reasonable compensation. The reasonable compensation should be based on reasonable criteria. The factors which are including in the reasonable criteria for the purpose of calculating the compensation are the period of service rendered by the workman with the management, the wages which the workman was getting at the time of the termination, amount of retrenchment compensation if management has opted to retrenched the services of the workman, interest on above amount, cost of litigation, inflation, cost index factor, and economic depreciation. If all the factors are considered in this file and the period for which the workman has served the management which is almost 8 years, I am of the view that an amount of Rs. 2,50,000 (two lakhs fifty thousand only) will be a reasonable compensation be paid to the workman by the management. Accordingly, the management of the bank is directed to pay/deposited in the account of this Tribunal an amount of Rs. 2,50,000 (two lakhs fifty thousand only) which also includes the cost of litigation within one month from the date of publication of the award. If the bank deposited

this amount within one month from the date of publication of the award no interest need not to be paid otherwise the workman shall also be entitled the interest on the above amount of Rs. 2,50,000 (two lakhs fifty thousand only) at the rate of 8 per cent per annum from the date of filing claim petition till final payment. The reference is accordingly answered. Let Central Government be informed for publication of award, and thereafter, file be consigned to record room.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 6 मई, 2010

का. आ. 1420.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 50/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-12011/104/2004-आई आर (बी-II)]
यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 6th May, 2010

S.O. 1420.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2004) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 5-5-2010.

[No. L-12011/104/2004-IR (B-II)]
U. S. PANDEY, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute Case No. 50 of 2004

BETWEEN

The General Secretary,
Canara Bank Employees Union (U.P.)
Canara Bank,
16/95, The Mall, Kanpur

AND

The General Manager,
Canara Bank,
Disciplinary Cell, Circle Office,
Vipin Khand,
Gomti Nagar,
Lucknow

AWARD

1. Central Government, MOL, New Delhi, vide notification No. L-12011/104/2004-IR (B-II) dated 29-9-04, has referred the following dispute for adjudication to this Tribunal :

“Whether the action of Dy. General Manager, Canara Bank, Lucknow in giving punishment of stoppage of two increments for a period of two years with cumulative effect vide order No. LC/DACW-19/2000/PRQ-182-2002 dt. 4-5-2003 against Sri Dinesh Kumar Chauhan Clerk-cum-Cashier is justified and legal ? If not what relief is the workman entitled to ?”

2. Brief facts of the case are that the workman Sri Dinesh Kumar Chauhan through the General Secretary, Canara Bank Employees Union filed his claim statement, alleging that he is employed as Clerk-cum-Cashier in Canara Bank and was posted at Vikas Nagar Branch District Dehradun in the year 2000. While posted at Vikas Nagar Branch he was placed under suspension vide order dated 18-1-2000. He was also served with a charge sheet dated 12-10-2000 by the Deputy General Manager (in short DGM) circle office Lucknow. An enquiry was initiated and Sri V. Om Prakash was appointed as Enquiry Officer. E.O. commenced enquiry proceedings and submitted his findings dated 21-7-01, to the DGM Lucknow. In his finding the enquiry officer stated that “In the light of the above, it is clear that none of the allegations made against the charge sheeted employee (CSE for the sake of brevity) are proved and substantiated and therefore I do not find him guilty of the charges that are leveled against him in the charge sheet. The DGM/Disciplinary authority did not agree with the finding of the enquiry officer, he delivered his tentative finding and forwarded the same to the workman vide order dated 9-11-01 along with the finding of the enquiry officer. Workman made his submission over the tentative findings of the DGM where after, the said authority held the workman guilty of the negligence while holding the second set of double lock keys vide his finding dated 2-4-02. Thereafter the DGM proposed the order of punishment vide order dated 2-4-02. After granting him a personal hearing the DGM inflicted the same punishment as was proposed, vide order dated 4-5-02, which is the matter of dispute. He further ordered that the period under suspension shall be treated not spent on duty. Being aggrieved the workman made an appeal to the General Manager/Appellate Authority which was rejected by the

authority vide order dated 5-8-03, Thereafter the union raised an industrial dispute before the ALC(C) Dehradun, where after the dispute has now been referred before this Tribunal.

3. It is alleged that the punishment is illegal and unjustified on the following grounds :

(a) Workman was charge sheeted for —

- (i) Unauthorisedly taking possession of the second set of double lock keys on various occasions and keeping the same with him.
- (ii) While closing the cash double lock keys were generally found in your possession.
- (iii) Second set of keys contained the key of Almirah containing security items the person holding the second set of keys can operate the almirah containing the security items independently.
- (iv) During the month of December 1999 on few occasions you have unauthorisedly taken out demand draft (in short DD) leaves from the above said almirah.
- (v) Unauthorised possession of second set of keys of double lock and unauthorisedly operating the double lock and the almirah containing security items have caused removal of DD Book from the branch.
- (vi) Your aforesaid acts caused wilful damage to the property of the bank.

4. It is further alleged that the DGM has accepted in his tentative finding, that the finding of the enquiry officer that the workman was not holding the keys unauthorisedly. The said authority recorded that "I feel that the CSE was negligent". The said authority has not referred to the evidence on which *this feeling of the disciplinary authority was based*. The DGM in his finding placed reliance on the recorded statements of Sri Bhatt and Sri Samual, whereas the enquiry officer has discarded the statement and the evidence of both these persons as they were not produced as witnesses and were not exposed to cross-examination. The DGM, however relied on the exhibits whereas in another enquiry against Sri Chandra Batra where these exhibits were produced and which were discarded by the enquiry officer. The said authority concurred with those findings of the enquiry officer. DGM relied upon the movement register which was discarded by the enquiry officer. DGM in his finding stated that on 24-12-99 the CSE had taken out the leaves from the security almirah whereas the witness M. W. 2 on page 12 of the enquiry proceedings has stated that the CSE was on leave from 20-12-99 to 24-12-99, therefore, reliance on exhibit MEX-4 is fallacious.

DGM has not taken into consideration the evidence as a whole but considered the only evidence which suited to him.

5. Therefore, it is alleged that the finding and the order of the DGM/Disciplinary authority is perverse illegal and prayed that the order of infliction of punishment be set aside.

6. The opposite party Canara Bank has filed written statement. It is stated by them that the claimant was working as a clerk at Vikas Nagar Branch, Dehradun from 21-6-97 to 11-5-02. During the tenure of the claimant a DD Book containing 50 DD leaves was stolen from the said branch. Out of the said DD Book 28 DD leaves amounting to Rs. 1,50,93, 3000 were fraudulently encashed at Mumbai. An investigation was conducted in the matter which revealed that the individual claimant had unauthorisedly taken possession of second set of double lock keys on various occasions which contained keys of the almirah containing security items (including blank DD books) and he as unauthorisedly operated the security items almirah on various occasions which has caused removal of DD book from the branch. Claimant was placed under suspension vide order dated 18-1-2000. Thereafter a chargesheet dated 12-10-2000 was issued to the claimant and a due departmental inquiry was conducted in the matter in which principles of natural justice were duly complied. Claimant was defended by Sri. Sudhir Sonkar. All the management witnesses were produced in the enquiry were cross-examined by the defence and documents were also produced during the enquiry. Enquiry officer submitted his finding dated 21-7-01 holding the claimant "not guilty" of the charges. Disciplinary authority after careful consideration of the enquiry proceedings and evidence brought on record had deferred with the findings of the enquiry officer and held the individual claimant is guilty to the extent that he was negligent while handling the second set of double lock keys which has caused removal of 50 DD leaves and in this regard the disciplinary authority has drawn a tentative finding dated 9-11-01, who observed that the claimant has not handled the second set of keys with proper care and caution and that he has not followed the system and procedure of the bank like operating the double lock keys by both the key holders, recording of all in and out transaction and maintaining all security items other than officially issued to the parties. The findings were given to the claimant for submission after analyzing the submission of the claimant the disciplinary authority confirmed his tentative findings and after giving personal hearing to the individual claimant on the proposed punishment, has imposed upon the claimant the punishment of "stoppage of two increments for a period of two years with cumulative effect", vide order dated 4-5-02. It was also ordered that the period spent by the claimant under suspension shall be treated not spent on duty. Claimant preferred a departmental appeal which was

rejected by the appellate authority vide speaking order dated 5-8-03. It is stated that in the said matter of stealing unused DD leaves various employees of the bank were charge sheeted for distinct charges and separate inquiry proceedings were for each employee, therefore, the contention raised by the claimant is not correct. It is stated that key movement register was placed in the enquiry proceedings and was not as MEX 1.4. The said document was verified by the investigating officer during the course of the investigation and was proved by him in the enquiry. As alleged by the claimant that he was on leave on 24-12-99 the same is incorrect and against the documents on record i.e. MEX 1.5 Attendance Register of the Branch. It was established in the enquiry that the security items of the branch (including blank and unused DDs) were tallied on 18-12-99 during the branch visit of the Divisional Manager, Regional Office Dehradun as such it is clear that the DD book was stolen after 18-12-99. It is stated that it is the discretion of the disciplinary authority as to how to treat the period of suspension in case punishment is imposed after conducting an inquiry. There is no requirement as per the service rule to advise the CSE by issuing a show cause notice regarding the period of suspension. It is contended that full and sufficient opportunity of being heard was offered to the workman during the disciplinary proceedings and before passing of the order as impugned and the workman has availed the full opportunity and now he cannot be allowed to raise any objection and all the principles of natural justice were duly complied with and therefore, the claimant is not entitled for any relief.

7. Claimant has filed 4 documents vide list paper no. 14/1. Documents are Canara Bank letter dated 9-11-01, Canara Bank letter dated 2-4-02, Canara Bank letter dated 4-5-02, Canara Bank letter no. LC/DAC/APL/PRO/241/2003 without date.

8. Opposite party management has filed the enquiry report in original vide list of document paper no. 20/1—20/5. It contains documents at serial no. I to 18 which are suspension order, charge sheet, reply of the claimant, appointment of enquiry officer, appointing Sri Batra as Presenting Officer, enquiry proceedings dated 11-1-01 and onwards written brief by presenting officer, written brief by defence representative, finding dated 21-7-01 by the enquiry officer, tentative finding of the disciplinary authority, letter dated 9-11-01 forwarding the findings of enquiry officer and disciplinary authority to the claimant, submission of claimant, letter of disciplinary authority to the claimant proposing the punishment and fixing the date of personal hearing, another letter, proceedings of disciplinary authority in respect of personal hearing, proceedings imposing punishment, appeal and order of appellate authority.

9. Other documents which were produced in the enquiry like investigation report prepared by Sri Dubey,

stock of demand drafts, details of movement of first key and second set of double lock keys, attendance register, balancing of security items, copy of FIR, Nekal pad of Canara Bank, investigation report, letters, statement of Sri Bhatt, Sri Samual, Sri Arora, Sri Batra, Sri Chauhan, Sri Sharma, Sri Pant, Sri Verma, Sri Bachan Singh, Sri Sogal Singh, Sri Bhait, Sri TB Thapa, Sri V Kalyan Sunderam, Sri Dinesh and Kumari Rekha, another letters cover page of TL demand drafts.

10. Other documents which were produced by the defence have been filed which are at serial no. 1 to 12.

11. Both the parties have adduced oral evidence as well.

12. Claimant has adduced himself as W.W. 1 Sri Dinesh Kumar Chauhan.

13. Opposite party has adduced in evidence one Sri Samual Singh as M.W. 1. No other witness has been produced.

14. I have gone through the whole file record and heard the arguments. My findings are as such.

15. Delinquent employee was charged by the disciplinary for the following charges :

- (i) That the CSE was unauthorizedly taking possession of second sets of double lock key on various occasions and keeping the same with him. It was observed that while closing the cash the second set of double lock keys was generally found in his possession.
- (ii) That the second set of keys contains key of almirah, containing security items and the person holding the second of keys can operate the almirah containing security items independently.
- (iii) That during the month of December 1999 on few occasions the CSE has unauthorizedly taken out DD leaves from the above said almirah. That unauthorized possession of the second set of double lock keys and unauthorizedly operating the double lock and the said almirah containing security items have caused removal of above DD book from the branch of which 28 DDs were fraudulently encashed in Mumbai as detailed above and also perpetration of fraud on the bank and has exposed the bank to huge financial loss.

16. It is the contention of the workman that a thorough inquiry was conducted by Sri V Om Prakash appointed by the management and the presenting officer was also appointed by the management. He contended

that after thorough inquiry the enquiry officer found in his inquiry report :

"All these facts go to show that the CSE was not in possession of the Double Lock Keys unauthorizedly much less in the month of December 1999 as well as in the charge sheet. It is also observed that from MEX-1 that Sri R. L. Samual though reportedly had given the keys of double lock to the CSE on 24-12-99, unofficially, never expressed any doubt on the CSE and the only person Sri P. N. Bhatt who expressed doubt against the CSE was not examined to confirm the said allegations. Therefore, whatever the observations made by MW1 in his report MEX-1 about the integrity and honesty of the CSE are only hearsay and not established out of fact.

In the light of the above it is clear that none of the allegations made against the CSE are proved and sustained and therefore, I do not find him guilty of the charges that are leveled against him in the charge sheet."

17. He contended that the disciplinary authority in his tentative finding has concluded "On perusal of the above, I agree with the findings of the enquiry officer that the CSE (Sri Chauhan) was not holding the keys unauthorizedly. However, I feel that the CSE was negligent while holding the second set of double lock keys containing security items kept in almirah which has caused removal of 50 DD leaves and I disagree with the finding of the enquiry officer to that extend."

18. What is the point of dispute in this case is, the contention of the workman is that the evidence which was not available on record and could not be read as per law and has been discarded by the enquiry officer based on set principle of law, has been considered, taken cognizance of by the disciplinary authority.

19. It is a fact that Sri Bhatt who was the manager in the bank and was supposed to hold the keys officially in his capacity, used to hand over the keys of double lock to Mr. Samual who is also an officer. Now these are the two witnesses but they have not been produced by the management during the inquiry proceedings before the enquiry officer. Enquiry officer did not record their statements so they could not be produced for cross-examination. Enquiry officer in his finding at page no. 7 has found that all the allegations that are leveled against the CSE are based on the statement of MEX 1.23 and 1.24 that of Sri P. N. Bhatt and Sri Samual respectively who were the first and second set of key holders of double lock of the security almirah. The so called permission given by Sri Bhatt and the so called operation of the security almirah independently by Samual and so called keeping of security

almirah keys along with the second set of double lock keys of Sri Samual etc., which are totally against systems, procedures and security norms of the bank are verifiable facts and the correctness of their statements can be taken as evidence only when they are subjected to cross-examination by the defence. Since the above officials were not examined as witnesses to confirm their statements given to MW1, the observation made by MW1 in his report MEX-1 can be construed only as hearsay and since the said observations were not corroborated by any oral or documentary evidence, it has become inadmissible evidence for the purpose of evidence.

20. In my view the enquiry officer has followed the set principle of law. Now I would like to see whether the disciplinary authority in his tentative findings has relied upon the statements of these two persons Sri Bhatt and Samual.

21. In his tentative finding at page 1 the disciplinary authority has specifically stated in last Para "I observe from MEX-1.23 (statement of Sri P. N. Bhatt, manager to investigating officer) that the CSE was given the second set of double lock keys occasionally by Sri R. L. Samual officer when ever Sri Bhatt was handing over his first set of double lock keys to Sri Samual. It is also revealed from the said statement that usually while closing the cash the second set of double lock keys was held by the CSE and also that on some occasions he has taken out DD leaves from the almirah during December 1999.

22. In his findings at page 2 in the middle he also observed that "though Sri Bhatt and Sri R. L. Samual were not produced in the inquiry, but their statements made to the investigating officer has been corroborated by Sri G. P. Pant, Clerk (MW2)."

23. I have given due thought to this consideration of evidence of the disciplinary authority and find that it is totally prohibited and it is against the law. It will be termed that the disciplinary authority has relied upon the evidence which is not part of the evidence of enquiry proceedings. Enquiry officer has specifically mentioned that statement of MW1 is hearsay. Enquiry officer has discarded the statement of MW1 relating to CSE on the basis that his report is based on the statement of Sri Bhatt and Sri Samual respectively. But when Sri Bhatt and Samual were not present before the enquiry officer, so he did not consider the statement of MW1 reliable.

24. In my view the entire enquiry shows that Sri Bhatt and Sri Samual were the main witnesses but they have not been produced before the enquiry officer for no reasons.

25. It is also contended by the workman that in this whole episode of fraud Sri P. N. Bhatt and Sri R. L. Samual are also facing departmental proceedings and they have

also been charge sheeted by the bank. Workman has drawn my attention towards the copy of the charge sheet which is DEX-7, copy issued to Sri R. L. Samual and copy of charge sheet DEX-8 issued to Sri Bhatt. In such circumstances it becomes more necessary that these two persons should have been produced as witnesses and to be cross examined by the CSE.

26. It is also contended that no specific charge of negligence was framed against the workman/CSE by the disciplinary authority.

27. The Disciplinary authority in his finding at page 1 has concluded that—"I agree with the findings of the enquiry officer that Sri Chauhan was not holding the keys unauthorisedly. However, I feel that the CSE was negligent while holding the second set of double lock keys containing keys of security almirah which has caused removal of 50 DD leaves". Again at page no. 2 the disciplinary authority concluded that "I do not agree with the enquiry officer in treating the evidence of MW1 inadmissible as far as the statements of Sri Bhatt and Sri Samual were taken by him during the interrogation wherein they confirmed that on several occasions they have handed keys of DL to the workman As such the statements of Sri P. N. Bhatt and Sri R. L. Samual are not hearsay and are very much admissible in evidence."

28. In my view as I have already stated that this piece of evidence that statement of Sri Bhatt and Sri Samual which were recorded by the investigating officer but were not produced before the enquiry could not be considered as part of evidence against the CSE. Therefore, I agree with the view of the workman. The tentative findings of the disciplinary authority are mainly based on the statement of Sri Bhatt and Sri Samual. At the last page the disciplinary authority again concluded—"I am of the view that the CSE was negligent in holding the second set of double lock keys" whereas on the first page he himself concluded that I agree with the finding of the enquiry officer that Sri Chauhan was not holding the keys unauthorisedly. Both the findings of the disciplinary authority appear to be contradictory.

29. Therefore, in view of the aforesaid findings, the view taken by the disciplinary authority is against the principles of natural justice that a person should not be condemned unheard. It is also violative of Article 14 of the Constitution. Therefore the action of the management in imposing punishment of stoppage of two increments for a period of two years with cumulative effect against Sri Chauhan clerk-cum-cashier is neither justified nor legal.

30. Therefore, the award is decided in favour of the workman and against the opposite party Canara Bank.

Dt. 28-1-2010

RAM PARKASH, Presiding Officer

नई दिल्ली, 6 मई, 2010

का. आ. 1421.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको वैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-I, चंडीगढ़ के पंचाट (संदर्भ संख्या 89/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-12011/283/2000-आई आर (बी-II)]
यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 6th May, 2010

S.O. 1421.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2001) of the Central Government Industrial Tribunal/Labour Court-I, Chandigarh now as shown in the Annexure in the industrial dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 5-5-2010.

[No. L-12011/283/2000-IR (B-II)]
U. S. PANDEY, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case I.D. No. 89/2001

BETWEEN

The General Secretary, UCO Bank Employees Union, Central Office, C/o UCO Bank, G. T. Road, Jalandhar (Punjab)-144001

... Applicant

Versus

UCO Bank, The Zonal Manager,
UCO Bank, Zonal Office,
Sector-22-B,
Chandigarh

... Respondent

APPEARANCES :

For the Workman : Shri A. N. Verma

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 3-5-2010

Government of India vide notification No. L-12011/283/2000-IR (B-II) dated 22-3-2001, by exercising its powers under Section 10 of the Industrial Disputes Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of UCO Bank in imposing the penalty of reduction of pay by one stage in the time scale on Smt. Sushma Rani, clerk of Rohtak Branch is just and legal ? If not, what relief the workman is entitled to ?”

After receiving the reference, parties were summoned. Parties appeared and filed their respective pleadings. Parties were also afforded the opportunity of adducing evidence. Smt. Sushma Rani filed her affidavit in support of her contention and she was cross-examined by learned counsel for the management on 9-7-09. Shri K. K. Kaushik, Chief Manager, UCO Bank filed his affidavit on behalf of the management and he was cross-examined by learned counsel for the workman on 10-8-09. I have heard the parties at length and perused the entire materials on record. The dispute in this case is regarding the punishment provided to the workman. The question is whether workman was guilty of misconduct for not perusing the FDR register before acting on the endorsement made on the FDR by the Manager concern.

The decision of this question relates to the differences between the negligent act and a bonafide mistake committed by the workman.

The father of the Nation Mahatma Gandhi at one place stated that liberty, equality and freedom is of no worth, if it does not include the right to commit mistakes. For me, it is the statement of Mahatma Gandhi from where this theory of bonafide mistake should be done. Moreover, Article 21 of the Constitution also contains in negative assertion of right to commit mistake. We cannot claim any workman above from committing mistakes. No body can claim himself to be infallible. If in the ordinary course or the nature some mistake is committed without any intention, it will be bonafide mistake and shall be included and protected as fundamental right under Article 21 of the constitution.

Even if some financial losses are suffered by the bank on account of bonafide mistake, the person cannot be held responsible. It is the negligence on the part of the workman for which he can be punished and not for the bonafide mistake.

The next question arises what is the criteria for asserting the bonafide mistake. It is well settled that if a man of prudence is supposed to take same precautions in

the ordinary course of nature which the workman has taken, it shall be considered that workman has acted bonafide. In this case it is admitted that order for canceling the endorsement on FDR in question was passed by the Manager concern who was competent to pass that order.

It is the contention of the management that the endorsement was fraudulently struck down by the Manager concern. This fact that endorsement was illegally struck down by the Manager concern was not within notice of the workman. In the notice of the workman was the lawful authority of the manager concern to struck down and cancel the endorsement made by him on FDR concern. The signature of the Manager concern and cancellation of endorsement on FDR is not disputed. The dispute is that endorsement was cancelled fraudulently. If for the fraudulently act of the Manager the workman is punished, it will amount to be the vicarious liability which is not possible for punishing any person.

The next issue raised by the management is that she has not taken note of the register of the FDR's in which there was no entry of cancellation of endorsement. It is the evidence of the management that this register was kept in joint supervision of the workman and the manager concern. Moreover, in the ordinary course of nature, it is accepted for every workman to act on the action of the manager to cancel the endorsement and to make the payment good. The requirement on the part of the workman was to confirm by her own act and conduct that cancellation of the endorsement was made by the manager concern who was authorized by law and rules. It was done by the workman. It is not in dispute that cancellation of endorsement was not made by the manager concern. It is not also disputed that manager concern was having no power to cancel the endorsement. Thus, at the cost of the repetition the workman has acted in the same way as is accepted from a man of prudence in the ordinary course of the nature. It will not affect the work and conduct of the workman, if she had not seen the entries in the register which was in the joint possession of her and the manager. Thus, the enquiry officer has wrongly held the workman guilty and the punishment awarded by the disciplinary authority, whatever may be the nature of the punishment, is not proper. Accordingly, the punishment awarded by the disciplinary authority is set aside because the workman has acted bonafide on cancellation of endorsement made by persons authorized to cancel by the law. The punishment awarded to the workman is set aside. The management is directed to restore all the peculiar and other benefits to the workman to which she was entitled, but for the punishment, within one month from the date of publication of the award. Let Central Government be approached for publication of award, and thereafter, file be consigned to record room.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 6 मई, 2010

का.आ. 1422.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/प्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 34/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-5-2010 को प्राप्त हुआ था।

[सं. एल-12011/96/2008-आई आर (बी-II)]

यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 6th May, 2010

S.O. 1422.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2009) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 5-5-2010.

[No. L-12011/96/2008-IR(B-II)]

U. S. PANDEY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Friday, the 30th April, 2010

PRESENT :

A. N. JANARDANAN, Presiding Officer

Industrial Dispute No. 34/2009

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Syndicate Bank and their Workmen]

BETWEEN

The State Secretary
Syndicate Bank Employees Union
Tamil Nadu State Committee,
K. K. Mundal Building,
8, Ramaswamy Street,
Chennai-600 002 ... Petitioner/1st party

AND

The Deputy General Manager party
Syndicate Bank Regional Office,
LIC Building, 38 Anna Salai,
Chennai-600 002 ... Respondent/2nd

APPEARANCES

For the 1st Party/Petitioner : Sri S. Vaidyanathan
For the 2nd Party/Management : M/s K.S.V. Prasad and
Mrs. P. Subhadra Devi

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12011/96/2008-(IR-B-II) dated 11-2-2009 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Syndicate Bank in imposing punishment of reduction of 2 increments by two stages for 2 years to Shri Pedabbiah, Attender, Mallupatti Branch is justified or not ? To what relief the workman is entitled to ?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 34/2009 and issued notices to both sides. Both sides entered appearance through their advocates and filed their Claim and Counter Statement as the case may be.

3. The case of the petitioner in the Claim Statement bereft of unnecessary details is as follows :

The workman Pedabbiah, Attender at Mallupatti branch of the Respondent/Bank was charge Sheeted on 11-10-2006 alleging certain unusual transactions in his SB Account 4569 at Hosur branch as regards certain cash credits and cash withdrawals between 17-5-2004 and 25-11-2005 as being disproportionate to his known source of income. It is further alleged that the employee appeared to be indulging in trade or business activities outside his employment detrimental to the interest of the bank. The workman in his explanation satisfactorily explained the discrepancy and denied the charges. The Disciplinary Authority did not provide statement regarding the business alleged of being engaged. An enquiry was held examining witnesses on both sides. By the enquiry report dated 5-3-2007, the allegations were held proved of which copy was furnished to the workman for comments which he gave on 13-6-2007. He was offered personal hearing on 29-6-2007 proposing punishment of reduction in basic pay by one stage for 1 year for misconduct under Clause-5(a) and the same by two stages for 2 years under Clause-5(j) of the settlement dated 10-4-2002. The proposed punishment was imposed on 22-6-2007. Appeal was dismissed on 22-7-2007. The charge is defective and vague devoid of clarity and being not specific. The finding is perverse not being based on evidence. The deposit of cash in the employee's account is not barred. It is shown to be in proportion to the income. The income right from the employee's entry into bank upto 2005 ought to have been taken into account. Income of the employee's Son

and the agricultural income were not considered. Chances of savings from salary ought to have been considered. The allegation is out of unnecessary doubt. That the employee might have got some other source was failed to be taken note of. Observation as to withdrawal of salary every month is not on evidence. Certain debits and credits were observed as pertaining to bank customers. Some monies given to customers were observed as based only on surmises and suspicions. The enquiry report is biased against the employee. The punishment is disproportionate. Appellate Authority dismissed the appeal mechanically. The enquiry is not proper and fair. Truth is shadowed by pre-conceived notions of the authorities concerned. Hence the claim.

4. The contentions raised in the Counter briefly read as follows :

The chargesheet is neither defective nor vague. The workman admitted having understood the charges read over to him. The enquiry was held in accordance with the principles of natural justice. The workman availed every opportunity to defend the case. Continuation of the proceeding by the Dy. General Manager on the superannuation of the Chief Manager is purely on administrative exigency and is not meaning that two different functionaries acted as Disciplinary Authority. No prejudice has occasioned thereby to the workman. The finding is not perverse. The evidence of the defence of the workman was not supported by documentary evidence. In the salary accounts of the employees third parties transactions cannot be permitted. Such routing of transactions leads to presume that those transactions relate to trade/business of the employee. The unusual transactions are of huge amount not proportionate to the known source of the income of the workman. The transactions have been through Current Account and not through Savings Bank. Reserve Bank has prohibited routing of business income to SB Accounts. Evidently all the business transactions of his Son are routed through SB Account of the workman. The allegations relate to the period between May 2004 and November 2005 with no carried over amount in the statement of account of the workman. It cannot be believed that he accumulated the salary earnings right from his entry into the bank upto the end of 2005. Unusual credits in his account are not his accumulated savings. There is no proof that the workman had saved his earnings or that his 22 years old Son had any source of income. The unusual savings are not from his salary. The charge is not borne out of unnecessary doubts. From 17-5-2004 to 25-11-2005, there were cash credits of Rs. 7.18 lakhs whereas he was drawing net salary of around Rs. 3,700 per mensem. It is clear that he was engaged in some business outside his employment. His property statement proved that he had no agricultural property. Showing withdrawal of Rs. 10,000 on 7-3-2005 as credit item is only a typographical error and is to be

treated as trivial. The workman's Son has not been examined. Workman's proved remittance of cash in the customers accounts to honour the clearing cheque is to be viewed with disfavour. The finding is not on surmises or suspicions. It is denied that Disciplinary Authority failed to appreciate the evidence. The punishment is as per provision of bipartite settlement. The finding is not on extraneous factors. The punishment is not disproportionate. The punishment is not discriminatory. The allegations against the authorities are false and baseless. The claim is to be dismissed.

5. The evidence consists of Ex. W1 to Ex. W30 on the petitioner's side Ex. M1 to Ex. M27 on the Respondent's side, all marked on consent. No oral evidence was adduced on either side.

Points for consideration are :

- (i) Whether the punishment of reduction of 2 increments by 2 stages for 2 years on the workman is justified or not ?
- (ii) To what relief the concerned workman is entitled ?

Points (i) and (ii)

6. Heard arguments from both sides and perused the documents and records of either side. The learned counsel for the petitioner while fairly conceded that the punishment being stoppage of increment Section-11A of the ID Act have no application, he further argued that the finding is perverse and the same is to be interfered with.

7. The contentions on behalf of the Respondent are that the severality of the remittances found in the account of the workman is without sufficient known income against which the explanation of the petitioner is not plausible. The claim of accumulated credit received by the workman from the bank does not stand substantiated. The evidence adduced by the workman is not at all convincing or reliable. A key witness i.e. Son of the petitioner is not examined. The credits found in the account are seen to be continuous and consistent. It shows the workman's indulgence in some income generating trade/business. The workman has no consistent explanation regarding the transactions during the different stages at which he was arraigned. To stand by truth and truth alone such inconsistent stands seldom fit in with.

8. The burden is on the workman to prove that he had sufficient income to meet his transactions in his account. It is for him also to prove the source of income for unusual transactions failure to which the indication that he was engaged in some kind of business or trade is only to be given credence. It is a strong circumstance to infer that the workman is engaged in some trade or business outside his employment which he cannot divulge without running the risk of facing disciplinary action which is

obviously not to his like or interest. Inferences drawn on the basis of cogent circumstances are not suspicions or surmises. Here it is not the case of no evidence at all to warrant a finding that the workman is guilty of misconduct. Therefore, the finding is not perverse. The enquiry discernibly went well culminating in a finding which is well in all aspects. Therefore, the finding is legal and justified. The punishment is also just and proper leaving no scope for interference in aid of Section-11A of the ID Act and it is only to be upheld and it is ordered so. The petitioner is not entitled to any relief.

9. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th April, 2010).

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner : None

For the II Party/Management : None

Documents marked :

On the petitioner's side

Ex. No. Date Description

Ex. W1 21-06-2006 Letter of the Respondent/Bank to the workman

Ex. W2 04-07-2006 Reply of the workman to the Respondent/Bank

Ex. W3 24-07-2006 Letter of the Respondent/Bank to the workman

Ex. W4 07-08-2006 Letter of the workman to the Respondent/Bank

Ex. W5 11-10-2006 Charge Sheet

Ex. W6 21-11-2006 Reply of the workman to the charge sheet

Ex. W7 05-02-2007 Letter of the workman to the Respondent/Bank

Ex. W8 20-02-2007 Enquiry Notice

Ex. W9 08-03-2007 Reply of the workman to the Respondent/Bank

Ex. W10 10-03-2007 Letter of the Respondent/Bank to the workman

Ex. W11 27-03-2007 Enquiry Notice

Ex. W12 30-03-2007 Letter of the workman to the Respondent/Bank

Ex. W13 19-04-2007 Letter of the Respondent/Bank to the workman

Ex. W14 21-04-2007 Letter of the Respondent/Bank to the workman

Ex. W15 04-05-2007 Letter of the Management to the Enquiry Officer

Ex. W16 04-05-2007 Proceedings of the enquiry

Ex. W17 07-05-2007 Letter of the Respondent/Bank to the workman

Ex. W18 07-05-2007 Defence Representative Brief

Ex. W19 05-06-2007 Report of the Enquiry Officer alongwith covering letter

Ex. W20 13-06-2007 Letter of the workman to the Respondent/Bank

Ex. W21 22-06-2007 Letter of the Respondent/Bank to the workman

Ex. W22 29-06-2007 Minutes of the personal hearing given to the workman

Ex. W23 30-06-2007 Order of the Disciplinary Authority

Ex. W24 06-07-2007 Letter enclosing the order of the Disciplinary Authority

Ex. W25 21-07-2007 Letter of the Respondent/Bank to the workman regarding the implementation of the order of the Disciplinary Authority

Ex. W26 22-07-2007 Letter of the workman to the Respondent/Bank

Ex. W27 09-11-2007 Dispute raised by the petitioner on behalf of the workman before the Assistant Commissioner of Labour (Central)

Ex. W28 05-01-2008 Letter of the Respondent/Bank to the Assistant Commissioner of Labour (Central)

Ex. W29 11-02-2009 Reference by the Government of India regarding the dispute

Ex. W30 24-03-2009 Notice from CGIT intimating the hearing of the ID No. 34/09

On the Management's side

Ex. No. Date Description

Ex. M1 11-10-2006 Charge Sheet issued to the workman Mr. Pedabbiah

Ex. M2 22/24-11-2006 Reply

Ex. M3 05-02-2007 Additional reply

Ex. M4 20-02-2007 Order of appointment of Enquiry Officer

Ex.M5	08-03-2007	Letter from workman to the Disciplinary Authority (General Manager) asking for information
Ex.M6	10-03-2007	Reply
Ex.M7	27-03-2007	Enquiry Officer's letter to commence enquiry
Ex.M8	30-03-2007	Letter from Workman to the Disciplinary Authority for information
Ex.M9	19-04-2007	Letter from Enquiry Officer fixing date for enquiry
Ex.M10	21-04-2007	Reply from Disciplinary Authority
Ex.M11	27-04-2007	Additional Reply from Assistant General Manager (Personnel)
Ex.M12	04-05-2007	Enquiry proceedings
Ex.M13	-	Management - Ex. M1 (Statement of Account of the workman)
Ex.M14	-	Management - Ex. M2 (Property Statement submitted by workman)
Ex.M15	17-08-2006	Management - Ex. M3 (Letter submitted by workman to Disciplinary Authority)
Ex.M16	05-06-2007	Enquiry Officer's report
Ex.M17	05-06-2007	Letter of Disciplinary Authority to workman enclosing Enquiry Officer Report
Ex.M18	13-06-2007	Explanation from workman
Ex.M19	22-06-2007	Order of Disciplinary Authority
Ex.M20	29-06-2007	Minutes of Personal Hearing
Ex.M21	30-06-2007	Final order of the Disciplinary Authority
Ex.M22	22-07-2007	Appeal by the workman
Ex.M23	28-08-2007	Covering letter for order of Appellate Authority
Ex.M24	21-08-2007	Appellate Authority's order
Ex.M25	09-11-2007	Letter of Industrial Dispute to ACL from Union
Ex.M26	22-12-2008	Reply from Respondent/Bank to the Government
Ex.M27	11-02-2009	Reference by Government

नई दिल्ली, 6 मई, 2010

का.आ. 1423.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल

बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 80/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-2010 को प्राप्त हुआ था।

[सं. एल-12012/2/97-आई आर (बी-II)]

यू. एस. पाण्डेय, डेस्क अधिकारी

New Delhi, the 6th May, 2010

S.O. 1423.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 80/1998) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 6-5-2010.

[No. L-12012/2/97-IR(B-II)]

U. S. PANDEY, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 80 of 98

Between

General Secretary,
PNB Employees Congress,
S-581
Yashoda Nagar,
Kanpur

And

Regional Manager,
Punjab National Bank,
Regional Office,
59/29, Birlana Road,
Kanpur

AWARD

- Central Government, MOL, New Delhi, vide No. L-12012/2/97-R (B-II) dated 28-4-98, has referred the following dispute for adjudication to this tribunal.
- Whether the action of the management of Punjab National Bank inflicting punishment of stoppage of one annual graded increment with cumulative effect vide disciplinary authority letter dated 27-3-92 on Sh. Girja Shanker, Clerk-cum-cashier, of Halsi Road Branch, Kanpur (At present posted at Dwarikadish

- Branch Kanpur) is legal and justified? If not, to what relief the said workman is entitled?
3. Brief facts are that workman Sri Girja Shanker through General Secretary Punjab National Bank has filed his claim statement. It is a admitted 72 act of both the parties that Sri Girja Shanker was posted at Branch Office Halsey Road Kanpur branch of opposite party bank as clerk cum cashier at relevant time on 7-2-89. It is alleged by him that he attended the office on 7-2-89, marked his presence, later on he got the information that his son is seriously ill and he is required to be at home. He requested for casual leave on 7-2-89, but getting no reply he went to his house and later on sent leave application by registered post. Later on in the month of May 89 his salary was deducted for 7-2-89, he was also charge sheeted with the following charge :
- (a) That on 7-2-89 at around 11.05 a.m. you were advised by Sri Rakesh Nigam Asstt. Manager of the same branch to work in the cash department but in utter disregard to lawful instructions of the authorities, you have refused to perform the duties assigned to you. On your refusal, at around 11.25 a.m. you were once again advised to perform your duties through an office order which also you refused to note down and once again did not comply with the instructions of the authorities.
 - (b) Subsequently you left the office unauthorizedly and remained absent from the office till 4.40 p.m. When you came to the office at 4.40 p.m. the branch manager demanded an explanation from you in writing for your above mentioned misconduct, you refused to accept the letter and left the office once again. You remained absent from the office for rest of the working hours.
4. It is alleged that the opposite party conducted an inquiry without following the principles of natural justice. They have committed the breach of Shastry Award and Desai Award. It is also alleged that preliminary inquiry has not been conducted. It is also alleged that when his salary for 7-2-89 was deducted then there was no purpose of conducting departmental inquiry. It is also alleged that Sri S. K. Shukla who was the branch Manager was also appointed as presenting officer and was also allowed to stand as a witness. It is therefore prayed that the domestic proceedings which were conducted be declared unlawful and punishment awarded to him be declared as illegal.
5. Opposite party has filed the written statement. They have contended that a fair bonafide inquiry was conducted. Claimant was given full opportunity to defend his case. Defence witnesses were recorded and there was no violation of principle of natural justice. They contended that there was no breach of Bipartite Settlement, Shastri Award or any other provisions; therefore, they prayed that the claim petition be dismissed.
6. Claimant has filed 15 documents vide list 52/1. These documents are leave application of the claimant dated 7-2-89, inquiry proceedings, LCA No. 241 of 89, copy of charge sheet, copy of medical certificate given by doctor, order on LCA, inquiry report of E.O., Order on appeal of CSE, summary filed by the union at the time of hearing.
7. The claimant has also filed rejoinder but nothing new has been stated therein except reiterating the facts already pleaded by him in his statement of claim.
8. Opposite party has also filed 10 documents vide list 9/1. These documents are office order register, paper no. 9/2, statement of Daftary Ram Kishore paper no. 9/3, letter dated 7-2-89 of manager paper no. 9/4, letter of employees 9/6, inquiry report 9/7 — 9/17, order dated 19-2-92 by the disciplinary authority, order dated 21-12-92 paper no. 9/19. They have also filed para 13.5 and para 13.23 of leave rules and have also filed copy of order of Presiding Officer, CGIT, Kanpur.
9. Both the parties have adduced oral evidence.
10. Claimant has adduced himself as w.w. 1 as Girja Shanker.
11. Opposite party one Smt. Meera Srivastava M.W. I.
12. No other oral or documentary evidence has been filed by either of the contesting parties.
13. I have carefully examined the whole evidence, record and heard the arguments of both the parties at length.
14. The only short question to be decided in this reference is whether the opposite party has violated any principle of natural justice in conducting the inquiry against the CSE Sri Girja Shanker. During arguments I specifically inquired from the authorized representative for the claimant that what are the reasons on which the claimant is saying that he has not been given the full opportunity or what are the grounds on which the opposite party has violated the principle of natural justice. He simply said that Sri Shukla who was branch manager has been appointed as presenting officer and later on he was also produced as a witness. I inquired how he got prejudiced. He did not show me the reason as to what prejudice caused to him if the branch manager was appointed as presenting officer or he has

appeared as a witness in the inquiry. He stated that when his salary was deducted for 7-2-89 then inquiry should not have been conducted and he should not have been punished. I do not find any force in this contention. Conducting of an inquiry depends upon the management, whenever they feel that some misconduct have been conducted by an employee then it will fall in the vagaries of the management to decide as to whether or not any regular disciplinary action is needed and if an inquiry has been ordered then it cannot be said that the management had acted against rules or rules of natural justice.

15. After conducting inquiry the inquiry officer found charge no. 1 proved and charge no. 2 not proved. The disciplinary authority has gone through the whole record and finding of the enquiry and concurred with the findings of the inquiry officer. A show cause notice was also served again to the delinquent for the proposed punishment and after hearing the delinquent employee the disciplinary authority has imposed the punishment upon the employee concern.
16. Opposite party has contended that they have given the full opportunity to the employee. They have recorded the statement of all the witnesses including the defence witness. There is no allegation against the inquiry officer. It is also contended by the opposite party that they have produced Smt. Meera Srivastava as MW.1 who is Dy. Manager. She was posted at the concerned branch at the relevant time in between 86 to 91. She has deposed as a management witness in the inquiry before the inquiry officer against the delinquent employee Sri Girja Shanker. When she was examined in the court and her statement was recorded claimant has not cross examine her therefore her statement goes unrebutted and uncontested.
17. Therefore, considering the facts I find that there is a force in the contention of the opposite party. This court is not supposed to interfere in the appreciation of the evidence because this course is not sitting as a appellate court unless the inquiry officer has committed gross error like basing his opinion on no evidence.
18. Therefore there is no force in the contention of the authorized representative for the claimant. The claimant has failed to prove his case.
19. Considering the above finding, it is concluded that the action of the management is neither illegal nor unjust. Therefore, the workman is not entitled for any relief as claimed by him.

20. Accordingly reference is answered accordingly against the workman and in favour of the management.

Dated : 29-4-2010

RAM PARKASH, Presiding Officer

नई दिल्ली, 6 मई, 2010

का. आ. 1424.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडैर के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 147/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-2010 को प्राप्त हुआ था।

[सं. एल-12012/21/95-आई आर (बी. 1)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th May, 2010

S.O. 1424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 147/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 06-5-2010.

[No. L-12012/21/95-IR(B-1)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/147/96

Presiding Officer Shri Mohd. Shakir Hasan

Shri Jaidev Narayane,
307, Laxmi Nagar Colony,
Ujjain (MP)

... Workman/Union

Versus

General Manager,
State Bank of Indore,
Head Office, Indore

... Management

AWARD

Passed on this 30th day of March, 2010

1. The Government of India Ministry of Labour vide its Notification No. L-12012/21/95-IR(B-1) dated 12-7-96 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of State Bank of Indore in terminating the services of

Shri Jaidev Narayane w.e.f. 5-9-92 is justified? If not, to what relief the workman is entitled for?"

2. The case of the workman, in short, is that he was appointed as a peon-cum-chowkidar at Garoth Branch of State Bank of Indore on 26-4-84. He proceeded on leave after obtaining sanction on illness of his father but his father died during his illness. Thereafter he became ill and therefore he extended his leave. It is stated that he received a notice from the non-applicant Bank to join his duty within 30 days. As such he reported on duty on 13-11-91 at Garoth Branch with a Medical Certificate but his joining was not accepted by the Branch Manager and had been directed to report before the Regional Manager, Indore with a sealed letter to be handed over to the Regional Manager. The said letter was handed over to Asstt. Regional Manager on the absence of Regional Manager. Thereafter he approached the Branch Manager on several dates but he was not allowed to join his duty awaiting the direction of the Regional Manager. He also gave representations. Lastly he was served a letter No. 05832 dated 5-9-92 by registered post whereby his service was terminated in terms of para 17(A) of the Fifth Bipartite Settlement w.e.f. 8-7-1992. It is alleged that no chargesheet was served nor any departmental proceeding was conducted. On these grounds, it is submitted that the reference be answered in his favour.

3. The non-applicant Bank appeared and contested the reference by filing Written Statement. The case of the non-applicant, inter alia, is that the reference is bad on account of misjoinder and non-joinder of parties. It is stated that the General Manager, State Bank of Indore is not a necessary party to the reference and necessary party is not made party to the reference. It is stated that the workman Shri Jaidev Narayane was appointed in the Garoth Branch of State Bank of Indore on 26-4-1984 as Peon-cum-Chowkidar but he was unauthorized habitual absentee. It is alleged that the workman was absent since 13-11-91 unauthorisedly without any permission. The notices dated 10-10-91 and 23-10-91 were served on him but he did not comply the notice and became absent since 13-11-91. It is stated that the workman was either not interested to continue in service or he was in another gainful employment. He was again served with notice to appear and file showcause within 30 days of his unauthorized absence but inspite of notice, he did not appear. Thereafter the non-applicant Bank after expiry of the period of notice treated him to be voluntarily retired from service in terms of Para 17(A) of the Fifth Bipartite Settlement and order dated 5-9-1992 was passed. It is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of both the parties, the following issues are settled for adjudication :

"(i) Whether the action of the management in terminating the services of Shri Jaidev Narayane w.e.f. 5-9-92 is justified?

(ii) To what relief, the workman is entitled for?"

5. Issue No. 1 :

To prove the case, both the parties have adduced oral and documentary evidence. The workman Shri Jaidev Narayane has stated that he received notices to appear on 10-10-91 and 23-10-91 and he appeared alongwith medical certificate. There is nothing to show in his evidence that he had filed reply of the notice of show cause. There is no paper to show that the workman was appearing before the Branch Manager for joining his duty. In absence of any document, it is established that he was continuously absent since 13-11-91. The workman has filed the order dated 5-9-92 which is marked as Exhibit W/1 whereby he was treated as voluntarily retired from the service. The said order shows that the workman was noticed on 8-6-92 to appear within 30 days but he did not appear as such under the provision of para 17(a) of the Bipartite Settlement dated 10-4-89, he was deemed to be voluntarily retired from the service. The workman has also filed copy of settlement which is marked as Exhibit W/2. The said settlement clearly shows that a notice is to be given before considering him as voluntarily retired. In this case notice was given and no reply was submitted. The evidence of the workman also proves the case of the non-applicant Bank.

6. The non-applicant has also examined one witness in the case. The management witness Shri Sanjay Richariya is Assistant Manager at Ratlam. He has stated that the workman was unauthorized absent without any leave. He has stated that two notices were given on 23-4-92 and 8-6-92. The said notices were admitted by the workman and are marked as Exhibit M/1 and M/2 respectively. Admittedly the workman did not appear and file any show cause in response to these notices. The management witness has stated that on expiry of the period of notice, the workman was treated to be voluntarily retired in terms of Para 17(A) of the Bipartite Settlement. It is clear that the workman has not replied to the notices and as such it is deemed that he had chosen to retire voluntarily in terms of the Bipartite settlement. Considering the entire evidence, it is clear that the non-applicant Bank is justified in relieving the workman from service. This issue is decided in favour of the management.

7. Issue No. 2 :

On the basis of the discussion made above, it is clear that the workman is not entitled to any relief and the reference is decided in favour of the bank.

8. In the result, the award is passed without any order to costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 6 मई, 2010

का. आ. 1425.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 173/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-5-2010 को प्राप्त हुआ था।

[सं. एल-12012/199/96-आई आर (बी.-1)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 6th May, 2010

S.O. 1425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 173/97) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh as shown in the Annexure in the industrial dispute between the management of State Bank of Patiala and their workman, which was received by the Central Government on 06-5-2010.

[No. L-12012/199/96-IR(B-1)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR, COURT-1,
CHANDIGARH**

Case I.D. No 173/97

Shri Karamjit Singh
C/o Trade Union Council,
Patiala ... Applicant

Versus

The General Manager,
State Bank of Patiala,
The Mall, Patiala-147001 ... Respondent

APPEARANCES

For the Workman : Shri H.S. Bath
For the Management : Shri N.K. Zakhmi

AWARD

Passed on 3-5-2010

Government of India vide notification No. L-12012/199/96-IR(B-1), dated 10-09-1997 by exercising its powers

under Section 10 of the Industrial Disputes Act, (The Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of State Bank of Patiala in terminating the services of the workman Shri Karamjit Singh is legal and justified? If not to what relief the concerned workman is entitled?”

After receiving the reference parties were informed. Parties appeared and filed their respective pleadings. On perusal of the pleadings of the parties, it is evident that workman was charge sheeted on two counts as follows :

- (1) That he fraudulently withdraw an amount of Rs. 2000 on 27-02-1993 and Rs. 600 on 02-03-1993 from the SB A/c. No. 26081 of Shri Labh Singh by forging his signatures.
- (2) That he fraudulently withdraw an amount of Rs. 300 on 30-11-1992, Rs. 600 on 20-02-1993 and Rs. 600 on 26-05-1993 from the SB A/c No. 20013 of Shri Tara Singh who had already expired on 21-11-1992.

The workman replied the charge sheet and dissatisfying with his reply, an administrative enquiry was ordered to be held. The workman has stated that no opportunity of being heard was afforded to him. On the other hand, the management has contended that proper opportunity was afforded to the workman and the workman, reasons known to him, has boycotted the enquiry proceedings on illegal grounds.

I have perused entire materials on record. Both of the parties were afforded the opportunity for adducing evidence. The workman Shri Karamjit Singh filed his affidavit in support of his contentions and he was cross-examined by learned counsel for the management on 17-12-09. On the other hand, one Shri R.D. Singh filed his affidavit on behalf of the management and he was cross-examined by learned counsel for the workman on 17-12-09. Arguments of the parties were heard at length.

It is important to mention that on fairness of enquiry parties were heard before recording evidence. As per the settled principle of service jurisprudence, as mentioned in the Act, parties may be heard on fairness of enquiry even without afforded them the opportunity of adducing evidence. If in the opinion of the Tribunal, material on record which includes enquiry proceedings, enquiry report, materials which was placed before the enquiry office and the disciplinary proceedings are sufficient to answer the issue on fairness of enquiry, it is not necessary to afford the opportunity to the parties for adducing oral evidence. It was done in this case. This Tribunal was of the view that issue on the fairness of enquiry can be adjudicated and answered even without affording the opportunity for recording evidence. Accordingly, both of the parties were

heard and this Tribunal vide this order dated 17-04-09 held that a fair, proper and reasonable enquiry was conducted by the enquiry officer before submitting enquiry report. It was also held by this Tribunal that there has been no violation of any rules of principle of natural justice while conducting the enquiry.

This Tribunal while holding the enquiry fair and proper afforded the opportunity to both of the parties for adducing evidence on decision making of the enquiry officer and the disciplinary authority. It is clear from the order dated 17-04-09 that the parties were afforded the opportunity on the ground of perversity in decision making, if any, and on quantum of punishment. Thereafter, both of the parties adduced the evidence. On perusal of the entire enquiry report it is evidently clear that on first date of hearing before the enquiry officer the workman appeared and it was ruled out that workman will be provided with the copies of the documents filed and relied upon by the management on the next date of hearing. Workman was also asked to scrutinize the documents placed before the enquiry officer. But on the next date for hearing, the workman absented on the following three grounds :

- (1) That other concern employees should also be suspended and brought at par with him.
- (2) That the statements recorded by the investigating officer was tutored and dictated against him. The statements of the witnesses were recorded under threat and duress.
- (3) He was member of subordinate staff, as such he could not pass the withdrawal form and make the payment and hence, all the officers and officials of the bank who have passed with withdrawal form and have made the payment should also provided the same punishment as he has been given by the management.

Adequate opportunity of being heard was given by the enquiry officer which is clear from the proceedings of the enquiry officer. As more as 14 witnesses were recorded and numerous documents filed by the management which were available to the enquiry officer to make the decision. The conditions imposed by the workman for attending the enquiry proceedings were against the law. The workman has no authority to dictate how the enquiry should be conducted. It was the opportunity provided to him to say about his grievances before the enquiry officer which he failed without any cogent and lawful reasons. He has boycotted the enquiry proceedings on arbitrary and capricious grounds and there was no option left for the enquiry officer but to proceed ex parte. As stated earlier, it has already been held by this Tribunal that proper opportunity of being heard was given to the workman

and that there has been no violation of any rules of principle of natural justice. After going through the evidence, I am of the view that during preliminary enquiry the workman has also admitted his misconduct guilt and during enquiry he has boycotted the enquiry proceedings without any lawful cause. In spite of it, the management adduced the entire evidence and on perusal of the evidence I am of the view, that the material and evidence during enquiry was sufficient to prove the charge against the workman. This Tribunal as per the settled law of service jurisprudence cannot act as the appellate authority of enquiry officer. This Tribunal has very limited jurisdiction to see any perversity on decision making of the enquiry officer. After going through entire materials on record, I am unable to see any perversity and there is no cause to interfere in the decision making of the enquiry officer. The disciplinary authority after affording the opportunity of being heard awarded the punishment of terminating the services of the workman, which is my opinion is proportionate to the committed misconduct. Accordingly, this reference is answered that workman is not entitled for any relief. Let Central Government be approached for publication of award and thereafter, file be consigned to record room.

G.K. SHARMA, Presiding Officer

नई दिल्ली, 7 मई, 2010

का. आ. 1426.—केन्द्रीय सरकार, भारतीय रेल अधिनियम, 1890 (1890 का 9) के अंतर्गत रेल सेवक (रोजगार के घटे) नियम, 1961 के नियम 4(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री एस.के. श्रीवास्तव, अपर सचिव, श्रम एवं रोजगार मंत्रालय को उक्त नियमों के अंतर्गत अपील सुनने के लिए अपीलीय प्राधिकारी के रूप में अधिसूचित करती है। यह सरकारी राजपत्र में इसके प्रकाशन की तिथि से लागू होगा।

[फा. सं. जेड-20025/6/2006-सीएलएस-1]
देवेंदर सिंह, निदेशक

New Delhi, the 7th May, 2010

S.O. 1426.—In exercise of the powers conferred by Rule 4(2) of Railway Servants (Hours of Employment) Rules, 1961 under the Indian Railway Act, 1890 (9 of 1890) the Central Government hereby notifies Shri S.K. Srivastava, Additional Secretary in the Ministry of Labour & Employment as Appellate Authority to hear Appeals under the said Rules. This will take effect from the date of its publication in the Official Gazette.

[F. No. Z-20025/6/2006-CLS-I]
DEVENDER SINGH, Director

नई दिल्ली, 7 मई, 2010

का. आ. 1427.—जबकि मैसर्स अर्गेनॉन (इंडिया) लिमिटेड, कोलकाता [कोलकाता क्षेत्र में कोड संख्या डब्ल्यूबी/12661] के अंतर्गत

(एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कम हितकर नहीं हैं और कर्मचारी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त योजना के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 01-05-1994 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/31/2009-एस एस-II]
एस.डी. जेवियर, अवर सचिव

New Delhi, the 7th May, 2010

S.O. 1427.—Whereas M/s. Organon (India) Limited, Kolkata [under Code No. WB/12661 in Kolkata Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01-08-1994 until further notification.

[No.S-35015/31/2009-SS-II]
S. D. XAVIER, Under Secy.

नई दिल्ली, 7 मई, 2010

का.आ. 1428.—जबकि मैसर्स जिंदल स्टील एंड पावर लिमिटेड [छत्तीसगढ़ क्षेत्र में कोड संख्या सीजी/7650 के अंतर्गत] (एतदुपरान्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरान्त अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

2. और जबकि, केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कम हितकर नहीं हैं और कर्मचारी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त योजना के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

3. केन्द्र सरकार एतद्वारा, अब उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, उक्त प्रतिष्ठान को उक्त योजना के समस्त उपबंधों के प्रचालन से 01-07-2000 से अगली अधिसूचना तक के लिए छूट प्रदान करती है।

[सं. एस-35015/55/2009-एस एस-II]
एस.डी. जेवियर, अवर सचिव

New Delhi, the 7th May, 2010

S.O. 1428.—Whereas M/s. Jindal Steel & Power Limited [under Code No. CG/7650 in Chhattisgarh Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the

provisions of the said Scheme with effect from 01-07-2000 until further notification.

[No.S-35015/55/2009-SS-II]
S.D. XAVIER, Under Secy.

नई दिल्ली, 12 मई, 2010

का. आ. 1429.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा अनुसूची में विनिर्दिष्ट कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रचालन से 30 सितम्बर, 2010 तक की अवधि के लिए छूट प्रदान करती है।

2. उक्त छूट निम्नलिखित शर्तों के अधीन हैं अर्थात् :

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगा, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व सदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् “उक्त अवधि कहा गया है”) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस नियमित प्राधिकृत कोई अन्य पदधारी;
- (i) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
- (ii) यह अधिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
- (iii) यह अधिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके

फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

- (iv) यह अधिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किहीं उपबंधों का अनुपाल किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा :
- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
- (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षण या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।
- (८) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

अनुसूची

क्रम स्थापना/कारखाने का नाम
संख्या

1. हैंडीकाफ्ट्स एण्ड हैंडलूम एक्सपोटर्स कार्पोरेशन ऑफ इंडिया लिमिटेड, नई दिल्ली।

2. गार्डन रीच शिप बिल्डर्स एण्ड इंजीनियर्स लिमिटेड, कोलकाता।

[संख्या एस-38014/48/2008-एस.एस.-1]
एस. डॉ. जेवियर, अवर सचिव

स्पष्टीकरण ज्ञापन

इस मामले में छूट को भूतलक्षी प्रभाव देना आवश्यक हो गया है क्योंकि छूट के आवेदन पर कार्यवाही करने में समय लगा। तथापि, यह प्रमाणित किया जाता है कि छूट को भूतलक्षी प्रभाव देने से किसी भी व्यक्ति के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

New Delhi, the 12th May, 2010

S.O. 1429.—In exercise of the power conferred by section 88 read with section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments specified in the schedule from the operation of the said Act for a period up to and inclusive of 30th September, 2010.

2. The above exemption is subject to the following conditions namely :

- (1) The aforesaid establishment wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees'.
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any inspector appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

- (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
- (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to :
 - (a) Require the principal or immediate employer to furnish to him such information as he may consider necessary for the purpose of this Act; or
 - (b) At any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises.
 - (e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

SCHEDULE

Sl. No. Name of the Establishment/Factory

1. The Handicrafts and Handlooms Exports Corporation of India Ltd., New Delhi.

2. Garden Reach Shipbuilders and Engineers Ltd., Kolkata.

[No. S-38014/48/2008-SS-I]
S. D. XAVIER, Under Secy.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as processing of the applications for exemption took time. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of any body adversely.

नई दिल्ली, 14 मई, 2010

का.आ. 1430.—जबकि मैसर्स बिनी इंजीनियरिंग लिमिटेड, चेन्नई [कोड संख्या टी.एन./31 चेन्नई क्षेत्र के अंतर्गत] (तदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने भारत सरकार द्वारा कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (तदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत प्रदान की गयी छूट को निरस्त करने हेतु आवेदन किया है।

2. जबकि उक्त अधिनियम की धारा 17(1)(क) के अंतर्गत 1-11-1952 से छूट प्रदान करने संबंधी अधिसूचना संख्या उ.क्षे.का. 3416 दिनांक 17-10-1957 भारत के राजपत्र में प्रकाशित की गयी थी।

3. और जबकि अब सरकार के ध्यान में यह आया है कि इस प्रतिष्ठान ने 31-12-2005 से अपनी छूट अभ्यर्थित कर दी है और यह काफी समय से कार्य नहीं कर रहा है।

4. अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 17 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा उक्त प्रतिष्ठान को प्रदान की गई छूट को 1-1-2006 से निरस्त करती है।

[सं. एस-35017/2/2007-एस एस-II]
एस. डी. जेवियर, अवर सचिव

New Delhi, the 14th May, 2010

S.O. 1430.—Whereas M/s Binny Engineering Limited, Chennai [under Code No. TN/31 Chennai region] (hereinafter referred to as the establishment) has applied for cancellation of exemption granted by Government of India under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. Whereas a notification No. SRO 3416 dated 17-10-1957 granting exemption w.e.f. 1-11-1952 under section 17(1)(a) of the said Act to the said establishment was published in the gazette of India.

3. And whereas now it has come to the notice to the Government that the establishment has surrendered its exemption with effect from the 31-12-2005 and it is no longer carrying on any activity.

4. Now, therefore, in exercise of the powers conferred by sub-section (4) of section 17 of the said Act the Central Government hereby cancels the exemption granted to the said establishment with effect from the 1-1-2006.

[No. S-35017/2/2007-SS-II]
S. D. XAVIER, Under Secy.

नई दिल्ली, 14 मई, 2010

का.आ. 1431.—केन्द्रीय सरकार, कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) की धारा 16 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह मत होने के कारण कि सोसाइटी पंजीकरण अधिनियम, 1860 (1860 का 21) के अंतर्गत पंजीकृत कलिपय स्थापनाओं की परिस्थितियों के मद्देनजर अथवा फिलहाल लागू किसी अन्य तदनुरूप नियम के अंतर्गत ऐसा करना जरूरी तथा समीचीन है, एतद्वारा निम्नलिखित श्रेणी के प्रतिष्ठानों को 1 अप्रैल, 2010 से 31 मार्च, 2015 तक की अवधि तक उक्त अधिनियम के प्रचालन से छूट प्रदान करती है :

(क) जिनका वित्तपोषण पूर्णतः केन्द्र सरकार, अथवा किसी राज्य सरकार अथवा राज्य सरकारों अथवा आंशिक रूप से केन्द्रीय सरकार तथा आंशिक रूप से एक अथवा अधिक राज्य सरकारों से प्राप्त सहायता अनुदान से होता हो बशर्ते कि सहायता अनुदान में भविष्य निधि में नियोक्ताओं के अंशदान के संबंध में नियोक्ता की देयताओं को पूरा करने के प्रयोजन से कोई राशि शामिल न हो; अथवा

(ख) जो लोक धर्म अथवा दातव्य न्यासों अथवा अक्षय-निधियों (मठों, मन्दिरों, गुरुद्वारों, वक्फों, चर्चों, यहूदी सभाघरों, एजीरियों अथवा सार्वजनिक धार्मिक अन्य पूजा स्थलों) अथवा सोसाइटीयों अथवा धार्मिक न्यासों अथवा दातव्य अथवा अन्य सार्वजनिक प्रयोजनार्थ न्यासों द्वारा चलाए जाते हों और केन्द्र सरकार द्वारा आयकर अधिनियम, 1961 (1961 का 43) के अंतर्गत उपर्युक्त रूप में अधिसूचित किए गए हों।

2. बशर्ते कि ऐसी श्रेणी के प्रतिष्ठान कोई विश्वविद्यालय, कोई कॉलेज, कोई विद्यालय, कोई वैज्ञानिक संस्थान, कोई ऐसा संस्थान चलाते हों जिसमें छात्रों से कोई प्रभार अथवा शुल्क लेकर अनुसंधान, शिक्षा जानकारी अथवा प्रशिक्षण प्रदान किया जाता हो अथवा वे कोई अस्पताल, नर्सिंग होम अथवा क्लीनिक चलाते हों, जिसमें रोगियों से कोई प्रभार अथवा शुल्क लेकर चिकित्सा उपचार या प्रक्रिया की जाती हो तो ऐसे कार्यकलाप को प्रथम उल्लिखित अधिनियम के प्रचालन से छूट नहीं दी जाएगी।

3. बशर्ते कि सरकार जब कभी उचित समझे छूट को रद्द करने तथा/अथवा आशोधित करने का अधिकार सुरक्षित रखती है।

[फा.सं. एस-35014/1/2010-एस एस-II]
एस. डी. जैवियर, अवर सचिव

New Delhi, the 14th May, 2010

S.O. 1431.—In exercise of the powers conferred by sub-section (2) of section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), The Central Government, being of opinion that having regard to the circumstances of certain establishments registered under the Societies Registration Act, 1860 (21 of 1860), or under any other corresponding law for the time being in force it is necessary and expedient so to do, hereby exempts the following class of establishments from the operation of the said Act for a period upto the 31st March, 2015 with effect from the 1st April, 2010.

(a) those being wholly financed by the grants-in-aid received from the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments subject to the condition that grants-in-aid does not include any amount for the purpose of meeting the liability of the employer towards the

employers' contribution to the provident fund; or

(b) those being run by public, religious or charitable trusts or endowments (including maths, temples, gurudwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship) or societies and Trusts for religious or charitable or other public purposes and notified as such by the Central Government under the Income Tax Act, 1961 (43 of 1961).

2. Provided that if such class of establishments run any university, any college, any school, any scientific institution, any institution in which research education, imparting knowledge or training is carried on against charges or fees from the students, or run any hospital, nursing home or clinic in which any medical treatment or procedure is carried on against charges or fees from the patients, such activity shall not be exempted from the operation of the first mentioned Act.

3. Provided that the Government reserves the right to revoke and/or modify the exemption as and when it is deemed fit.

[F. No. S-35014/1/2010-SS-II]
S. D. XAVIER, Under Secy.